CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

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Submitted via www.regulations.gov

April 25, 2019

Lauren Alder Reid
Assistant Director
Office of Policy
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2616
Falls Church, VA 22041

RE: Public Comments on Professional Conduct for Practitioners, Scope of Representation and Appearances
EOIR Docket No. 18-0301, RIN 1125-AA83

Dear Ms. Reid:

The Catholic Legal Immigration Network, Inc. (CLINIC) submits these comments in response to the Executive Office for Immigration Review (EOIR) Advance Notice of Proposed Rulemaking (ANPRM) entitled "Professional Conduct for Practitioners, Scope of Representation and Appearances," published March 27, 2019.

CLINIC embraces the core Gospel value of welcoming the stranger. CLINIC promotes the dignity and protects the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration programs. CLINIC is the largest nationwide network of nonprofit immigration programs, with approximately 370 affiliates in 49 states and the District of Columbia.

Through our affiliates, as well as through the BIA Pro Bono Project, the Dilley Pro Bono Project (formerly known as the CARA Pro Bono Project), a motions to reopen project for mothers released from family detention, and the recent Remote Bond Project in partnership with the American Immigration Council, CLINIC has advocated for the just and humane treatment of asylum seekers, unaccompanied children, and other vulnerable populations. Since the administration implemented a "zero tolerance" policy last summer, which resulted in the separation of thousands of parents from their children, we have been assisting families with pro se motions to change venue. Through our Remote Bond Project, we have seen the beneficial impact of the 2015 regulatory changes allowing limited appearances in bond hearings. Through our motions to reopen project for mothers released from family detention and our work assisting formerly separated families who lack representation, we have learned that further expansion of limited representation could be similarly beneficial to noncitizens in removal proceedings. Our

faith-based goal of welcoming the stranger is best served by ensuring that immigrants are empowered to seek justice in their immigration court proceedings with competent, affordable representation.

These comments will address the issues raised by the ANPRM thematically rather than in the order presented in the ANPRM.

Background

Expanding access to high quality counsel is central to CLINIC's mission. Representation of noncitizens is beneficial to both sides before EOIR. EOIR itself has acknowledged the significant benefits to the respondent and the court that pro bono representation provides:

> Pro bono representation benefits both the respondent and the court, providing respondents with welcome legal assistance and the judge with efficiencies that can only be realized when the respondent is represented. A capable pro bono representative can help the respondent navigate court rules and immigration laws and thereby assist the court in understanding the respondent's circumstances and interests in relief, if any is available. Pro bono representation in immigration court thus promotes the effective and efficient administration of justice.[1]

Similarly, when EOIR promulgated regulations in 2015 allowing for limited appearances in bond proceedings, it stated:

> the Department [of Justice] anticipates that this rule will also have a positive economic impact on the Department, because increasing the number of individuals who are represented in their custody and bond proceedings will enable immigration judges to adjudicate proceedings in a more effective and timely manner, adding to the overall efficiency of immigration proceedings.[2]

CLINIC welcomes initiatives by EOIR that will expand access to counsel for individuals in removal proceedings. Like EOIR, CLINIC is concerned about the record backlog of removal cases and believes that the best way to improve the efficiency of removal proceedings, while also promoting fairness and due process, is through expanded representation.

The best outcome for noncitizens facing removal would be a right to government appointed counsel. In 2015, Syracuse University's Transactional Records Access Clearinghouse (TRAC) found that representation makes a fourteen-fold difference in the outcome of immigration court cases involving women and children.[3] At the same time that asylum denial rates have been

[1] David Neal, Chief Immigration Judge, Operating Policies and Procedures Memorandum 08-01: Guidelines for Facilitating Pro Bono Legal Services (Mar. 10, 2008), https://www.justice.gov/sites/default/files/eoir/legacy/2008/04/24/08-01.pdf.
[2] Separate Representation for Custody and Bond Proceedings, 80 Fed. Reg. 59500-01 (Oct. 1, 2015).
[3] TRAC, *Representation Makes Fourteen-Fold Difference in Outcome: Immigration Court "Women with Children" Cases* (July 15, 2015), https://trac.syr.edu/immigration/reports/396/.

rising, representation of asylum seekers has been falling.[4] This crisis in representation is even more acute for those who are detained. According to one study, only 14 percent of detained noncitizens facing removal were able to secure representation.[5] As the attorney general has taken steps that make legal definitions in asylum law more complicated than ever before,[6] the need for high quality legal representation has never been greater.

During the course of the past two years, rather than expand access to counsel, EOIR, the Department of Justice (DOJ) and/or the Department of Homeland Security (DHS) have taken steps to reduce representation and to thwart the right to full and fair proceedings for noncitizens. These steps include the following:

- Took steps to end the Legal Orientation Program (LOP) for detained noncitizens[7]
- Forced asylum seekers to remain in Mexico while awaiting immigration court hearings on their asylum claims[8]
- Pursued disciplinary action against Northwest Immigrant Rights Project for providing desperately needed free legal services[9]
- Increased detention in distant locations[10]
- Increased the use of video teleconferencing[11]
- Imposed performance quotas on immigration judges[12]

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[4] TRAC, *Asylum Representation Rates Have Fallen Amid Rising Denial Rates* (Nov. 28, 2017), https://trac.syr.edu/immigration/reports/491/.
[5] I. Eagly & S. Shafer, *A National Study of Access to Counsel in Immigration Court*, 164 U. PA. L. REV. 1, 2 (2015).
[6] *Matter of A-B-*, 27 I&N Dec. 316, 340 (A.G. 2018) (faulting the Board of Immigration Appeals for analogizing a particular social group in the case at bar to the particular social group in a precedential decision, and finding that every element of an asylum case must be proven independently in every case).
[7] Maria Sacchetti, *Justice Dept. to Halt Legal-Advice Program for Immigrants in Detention*, WASHINGTON POST, Apr. 10, 2018, https://www.washingtonpost.com/local/immigration/justice-dept-to-halt-legal-advice-program-for-immigrants-in-detention/2018/04/10/40b668aa-3cfc-11e8-974f-aacd97698cef_story.html?utm_term=.9eed71c9f294. While DOJ did restart the LOP program, it has issued reports critical of the LOP. EOIR, LOP Cohort Analysis (Sept. 5, 2018), https://www.justice.gov/eoir/file/1091801/download; EOIR, Addendum To Lop Cohort Analysis, Phase I: Detention Length With DHS Data (Jan. 29, 2019), https://www.justice.gov/eoir/file/1125596/download; EOIR, LOP Cohort Analysis: Phase II (Jan. 29, 2019), https://www.justice.gov/eoir/file/1125621/download. The Vera Institute of Justice has questioned the methodology in these reports. Press Release, Vera Institute of Justice, Statement on DOJ Analysis of Legal Orientation Program (Sept. 5, 2018), https://www.vera.org/newsroom/statement-on-doj-analysis-of-legal-orientation-program;Vera Institute of Justice, *LOP Case Time Analysis, Fiscal Years 2013-2017* (Sept. 14, 2018), https://www.tahirih.org/wp-content/uploads/2018/10/2018-51777-Doc-02-21-pgs.pdf.
[8] DHS, Migrant Protection Protocols (Jan. 24, 2019), https://www.dhs.gov/news/2019/01/24/migrant-protection-protocols.
[9] Rachel B. Tiven, *The Airport Lawyers Who Stood Up to Trump Are Under Attack*, THE NATION, May 19, 2017, https://www.thenation.com/article/the-airport-lawyers-who-stood-up-to-trump-are-under-attack/.
[10] Heidi Altman, National Immigrant Justice Center, *DHS's Secret Detention Expansion Is Dangerous for Immigrants, and Democracy* (Jan. 10, 2019), https://www.immigrantjustice.org/staff/blog/dhss-secret-detention-expansion-dangerous-immigrants-and-democracy.
[11] Katie Shepherd, American Immigration Council, *Immigration Courts' Growing Reliance on Videoconference Hearings Is Being Challenged* (Feb. 25, 2019), http://immigrationimpact.com/2019/02/25/immigration-courts-videoconference-hearing-challenged/.
[12] James H. McHenry, EOIR, Case Priorities and Immigration Court Performance Metrics (Jan. 17, 2018), https://www.justice.gov/eoir/page/file/1026721/download.

- Upended orderly immigration court scheduling by accelerating scheduling of asylum cases[13]
- Restricted judges' ability to reasonably manage their dockets by circumscribing the use of administrative closure or termination and narrowing the standard for granting continuances and[14]
- Curtailed dialogue with the immigration advocacy community.

Furthermore, from President Trump himself,[15] to the office of the attorney general,[16] this administration has repeatedly questioned the integrity of immigration lawyers. Against this backdrop, it is difficult to engage in an open-ended dialogue in responding to the questions raised in the ANPRM without questioning whether the government is acting in good faith and with a sincere goal of expanding access to immigration counsel to noncitizens in removal proceedings. Nonetheless, because of the importance of the issues raised and CLINIC's expertise in this area, we submit the following comments, which generally support increased use of limited representation and assisting unrepresented noncitizens in completing forms.

Northwest Immigrant Rights Project v. Sessions

On April 25, 2017, EOIR sent a cease and desist letter to the Northwest Immigrant Rights Project (NWIRP) ordering it to stop providing assistance in preparing documents for otherwise unrepresented noncitizens without entering a Notice of Appearance. Specifically, the letter stated that two NWIRP attorneys assisted unrepresented noncitizens in filing motions to reopen without submitting EOIR 28s, although they did identify themselves in the papers.[17] NWIRP filed litigation in federal court asserting, *inter alia*, its First Amendment right to engage in attorney client relationships. The court issued a preliminary injunction on July 27, 2017, in favor of NWIRP.[18] On April 17, 2019, NWIRP and DOJ entered into a settlement agreement in this

[13] James McHenry, EOIR, Guidance Regarding the Adjudication of Asylum Applications Consistent with INA § 208(d)(5)(A)(iii) (Nov. 19, 2018), https://www.justice.gov/eoir/page/file/1112581/download.
[14] *See Matter of S-O-G- & F-D-B-*, 27 I&N Dec. 462 (A.G. 2018); *Matter of L-A-B-R- et al*., 27 I&N Dec. 405 (A.G. 2018); *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018).
[15] "You have people coming, you know they're all met by the lawyers. … And they come out, and they're met by the lawyers, and they say, 'Say the following phrase: I am very afraid for my life. I am afraid for my life.' Okay. And then I look at the guy. He looks like he just got out of the ring. He's a heavyweight champion of the world. It's a big fat con job." Maegan Vazquez, *Trump Appears to Mock and Question the Legitimacy of Asylum Claims: "It's a Big Fat Con Job*", CNN, Mar. 28, 2019, https://www.cnn.com/politics/live-news/trump-rally-michigan-march-2019/index.html.
[16] Attorney General Jeff Sessions, Remarks to the Executive Office for Immigration Review (Oct. 12, 2017), https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-executive-office-immigration-review ("We also have dirty immigration lawyers who are encouraging their otherwise unlawfully present clients to make false claims of asylum providing them with the magic words needed to trigger the credible fear process."); Attorney General Jeff Sessions, Remarks to the Largest Class of Immigration Judges in History for the Executive Office for Immigration Review (Sept. 10, 2018), https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-largest-class-immigration-judges-history ("Good lawyers, using all of their talents and skill, work every day—like water seeping through an earthen dam—to get around the plain words of the INA to advance their clients' interests. Theirs is not the duty to uphold the integrity of the act.").
[17] Letter from Jennifer Barnes, EOIR Disciplinary Counsel, to Matt Adams (Apr. 4, 2017), *NWIRP v. Sessions*, No. 2:17-cv-00716-RAJ (W.D. Wash. filed May 8, 2017), Doc. No. 1-1, https://www.nwirp.org/wp-content/uploads/2017/05/Dkt-1-1-exhibit.pdf.
[18] *NWIRP v. Sessions*, No. C17-716 RAJ, 2017 WL 3189032, at *7 (W.D. Wash. July 27, 2017).

litigation.[19] That settlement requires EOIR to conduct a rulemaking process within the next nine months that will amend 8 CFR § 1003.102(t) in accordance with the terms of the settlement and subject to the court's approval.[20] This ANPRM therefore appears to have been issued in anticipation of a full notice and comment rulemaking by the government in the next nine months. However, the scope of questions in the ANPRM goes well beyond the issues addressed in the settlement agreement.

CLINIC maintains that the terms of the current injunction in *NWIRP v. Sessions* should form the basis of any regulations that EOIR issues. The injunction applies on a "nationwide basis as to any other similarly situated non-profit organizations who, like NWIRP, self-identify and disclose their assistance on pro se filings" and "prohibits the enforcement of 8 C.F.R. § 1003.102(t) during the pendency of this preliminary injunction on a nationwide basis."[21]

8 C.F.R. § 1003.102(t) provides for disciplinary sanctions against any practitioner who:

> (t) Fails to submit a signed and completed Notice of Entry of Appearance as Attorney or Representative in compliance with applicable rules and regulations when the practitioner:
> (1) Has engaged in practice or preparation as those terms are defined in §§ 1001.1(i) and (k), and
> (2) Has been deemed to have engaged in a pattern or practice of failing to submit such forms, in compliance with applicable rules and regulations. Notwithstanding the foregoing, in each case where the respondent is represented, every pleading, application, motion, or other filing shall be signed by the practitioner of record in his or her individual name.

In issuing this injunction, the court appropriately balanced the interests and found that NWIRP was providing invaluable services to noncitizens who would otherwise have no legal assistance. The court stated:

> the dichotomy between the Government's recognition of the importance of legal representation and acknowledgment that the Regulation will result in decreased services lays bare an uncomfortable reality. The effect of the Regulation as interpreted by the Government will be the inevitable chipping away at attorneys' fundamental rights. Under the circumstances of this case, EOIR is blindly seeking to impose its rules and regulations and spin precedent in a manner inconsistent with fairness.[22]

CLINIC urges EOIR to ensure that any regulations it promulgates comply with basic principles of fairness and support the goal of expanding access to counsel for noncitizens. CLINIC also urges EOIR to recognize that, absent a right to government-funded counsel, more noncitizens will continue to seek counsel from non-profit and pro bono representatives that are limited in resources and representation capacity. EOIR should therefore frame its rules to facilitate

[19] Notice of Settlement and Filing of Settlement Agreement, *NWIRP v. Barr*, No. 2:17-cv-00716-RAJ (W.D. Wash. Apr. 17, 2019), Doc. No. 109, https://www.nwirp.org/wp-content/uploads/2019/04/dkt-109-Notice-of-Settlement.pdf.
[20] *NWIRP v. Sessions*, No. C17-716 RAJ, 2017 WL 3189032, at. *7-8.
[21] *Id.*
[22] *Id.* at *4.

provision of legal services by nonprofit and pro bono counsel rather than limiting such legal services.[23]

Document Assistance[24]

The American Bar Association (ABA) has supported "unbundling" of legal services and has even come out in favor of "ghostwriting," that is, an attorney assisting with document preparation without identifying himself or herself in the papers.[25] Under the EOIR and DHS regulations, however, counsel is not permitted to assist an unrepresented individual unless counsel enters a notice of appearance, which, in immigration court, means that counsel must remain on the case through the merits unless the client fires counsel or the immigration judge grants a motion to withdraw.[26]

There are numerous situations where noncitizens could greatly benefit from assistance by counsel that falls short of full representation in immigration court.[27] A non-exhaustive list of such situations includes:

- Preparation of a motion to reopen
- Preparation of a motion to remand
- Preparation of a motion to terminate proceedings
- Preparation of a motion to recalendar proceedings (or opposition to a motion to recalendar)
- Preparation of a motion for a stay
- Preparation of a motion for a change of venue, or
- Preparation of an application for asylum, withholding, and protection under the Convention against Torture, or other forms of relief.

Limited representation with respect to each of these documents (and likely others not included in this list) could greatly benefit the noncitizen in removal proceedings who lacks the expertise to file such documents without the assistance of trained counsel.

Nonprofit organizations often must triage meritorious cases and turn away potential clients because of lack of resources. Most noncitizens in removal proceedings speak a language other than English as a first language, and completing complex legal forms in a foreign language is often impossible, especially as immigration forms continue to become longer and more complex. Attorneys may be able to assist noncitizens by, for example, filing a motion which may change

[23] CLINIC acknowledges that some of the questions raised in the ANPRM may have more complicated answers in the context of for-profit attorneys who charge market rate fees for providing legal representation. CLINIC will limit its comments to the ANPRM to the application of limited representation in the non-profit and pro bono context.
[24] This section addresses question 3 and 4 of the ANPRM.
[25] American Bar Association Standing Committee on Ethics and Professional Responsibility, Formal Opinion 07-446, *Undisclosed Legal Assistance to Pro Se Litigants* (May 5, 2007) https://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_aba_07_446_2007.pdf.
[26] 8 CFR § 1003.17. This was precisely the issue in *NWIRP v. Sessions* and the enforcement of that regulation has been enjoined as to representatives working for non-profit organizations pursuant to that injunction.
[27] As discussed in the following section, for any of these motions, it might be beneficial for the representative to enter a limited appearance to argue the motion to the extent the court schedules a hearing on the motion.

the outcome of the proceedings or filing an asylum application to ensure that an unrepresented asylum seeker meets the one year filing deadline.

CLINIC asserts that if an attorney assists an applicant with preparing an application or submitting documents to court, the attorney should have to identify himself or herself.[28] In instances where CLINIC has provided *pro se* assistance on motions to change venue, CLINIC makes the scope of our assistance clear and provides contact information.

Although the ABA has supported the concept of attorney "ghost-writing" where the attorney does not put his or her name on the documents the attorney prepared, CLINIC is concerned that ghost-writing would make it impossible for a noncitizen to comply with the strict procedural requirements of *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988).[29] If representatives are able to submit documents without identifying themselves, and they provide ineffective assistance of counsel, the noncitizen would be unable to adhere to *Lozada* and might not be able to have the case reopened.

So long as there is clear contact information for the representative on the document, it should not be necessary to file an E-28 with the document, and doing so may be confusing for court personnel. If EOIR does determine that E-28s should be filed for document preparation, then there should be a box added to allow the representative to clearly state the scope of the representation, and whether or not the scope of representation includes appearance in immigration court. However, any additions to form E-28 should not increase the length of the form beyond its current two-page length.

Limited Appearances[30]

Noncitizens in removal proceedings would also benefit from having counsel appear in a limited capacity in certain circumstances. For example, in each of the circumstances listed in the Document Assistance section above concerning assistance with motions, the representative might logically appear in court on a limited basis to argue the motion, but not be required to remain on the case for the full merits hearing. Each of these situations[31] involves a discrete segment of the case where the respondent could benefit from counsel playing a role that does not necessarily extend to full representation.

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[28] The terms of the settlement in *NWIRP v. Sessions* require practitioners who are preparing "pleadings" that will be filed with EOIR to identify themselves and specifies that "[s]uch identification, however, will be limited to the Practitioner's name, EOIR number and/or bar number, phone number, and a statement that the Practitioner's representation is limited to that specific Pleading." Notice of Settlement and Filing of Settlement Agreement, at 8, *NWIRP v. Barr*, No. 2:17-cv-00716-RAJ (W.D. Wash. filed Apr. 17, 2019), Doc. No. 109, https://www.nwirp.org/wp-content/uploads/2019/04/dkt-109-Notice-of-Settlement.pdf.

[29] Under *Matter of Lozada*, a noncitizen who has been the victim of ineffective assistance of counsel can only succeed in using that claim in a motion to reopen if the noncitizen first contacts the ineffective attorney, allowing him or her to respond, and then files a disciplinary complaint, or explains the reason for not doing so. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988).

[30] This section addresses questions 1, 2, and 4 of the ANPRM.

[31] The non-exhaustive list above includes: a motion to reopen; a motion to remand; a motion to terminate proceedings; a motion to recalendar proceedings (or opposition to a motion to recalendar); a motion for a stay; and a motion for a change of venue.

In 2015, EOIR engaged in a rulemaking process that, for the first time, allowed representatives to enter limited appearances in bond proceedings. This was an important step because noncitizens are more than twice as likely to obtain counsel if they are not in detention. According to a 2016 study, only 37 percent of noncitizens facing removal have representation, and the number drops to 14 percent of detained noncitizens.[32] Furthermore, pro bono attorneys can now accept a case solely for a bond hearing, helping a noncitizen to gain release from detention, without having to appear in the entire proceeding. This rule change was logical because the bond hearing is a distinct phase of the removal proceeding.

Likewise, for specific discrete segments of a removal case, particularly on motions, noncitizens would benefit greatly from having a representative provide limited representation. For example, in CLINIC's work with formerly detained noncitizens, it is often essential for the noncitizen to submit a motion to change venue from a court near the border where the noncitizen was apprehended and/or detained, to the court in the city where the noncitizen now resides. It is often difficult to find pro bono counsel who is willing to provide representation on such motions, because if the change of venue motion is not granted, under the current rules counsel would need to file a motion to withdraw, and, if that motion is denied, would need to travel to another state to provide legal representation.[33]

CLINIC thus supports allowing limited appearances in discrete segments of the case, particularly, though not exclusively, to argue a motion.[34] Representatives who appear in court should file an E-28 and the form should be amended to allow the representative to delineate the exact scope of representation.

Concerns About Notices of Hearing and *In Absentia* Orders[35]

CLINIC has a significant concern that if limited appearances are broadly permitted, there may be an increase in *in absentia* removal orders. Under 8 CFR § 1292.5(a) if a respondent in removal proceedings is represented, any notice or document in the proceedings must be served on the representative; the regulations only require service on the noncitizen himself or herself if he or she is unrepresented. A significant concern with the possibility of allowing an attorney to appear at some hearings but not others is that the representative would continue to receive hearing notices rather than the respondent. Thus, EOIR should be required to mail any notices or decisions directly to the respondent in cases where the representative indicates that he or she is not providing full representation on the case. EOIR should err on the side of sending a copy to both the representative and the respondent rather than potentially not reaching the respondent with the document at all.

[32] Ingrid Eagly & Steven Shafer, American Immigration Counsel, *Access to Counsel in Immigration Court* (Sept. 2016), https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf.

[33] EOIR should also encourage immigration judges to generally grant motions to appear telephonically for pro bono representatives who are in a distant location.

[34] CLINIC plans to address any specific proposals on this topic when EOIR publishes a proposed rule.

[35] This section addresses question 7 of the ANPRM.

Access to Client Files[36]

A noncitizen in removal proceedings and his or her legal representative has the right to access EOIR's court file.[37] Whether or not EOIR changes the rules regarding limited representation, there is no reason to restrict access to a noncitizen's file based on the scope of representation. A practitioner engaging in any level of representation, no matter how limited, or, indeed even in providing case analysis, will generally need access to the noncitizen's court record. A signed consent from the noncitizen, and/or a notice of appearance by counsel if the noncitizen is represented in proceedings, should be sufficient for the noncitizen and/or his or her counsel to have access to the file.

EOIR Should Not Interfere in Attorney-Client Relationships[38]

Attorneys must be licensed in at least one state in order to practice in immigration court. Each state has its own licensing procedures and its own set of ethical rules to which attorneys must adhere. It is the attorney's responsibility to research and comply with state ethical rules and ensure that any limited representation the attorney provides does not run afoul of those rules. It is neither necessary nor appropriate for EOIR as a federal tribunal to investigate or attempt to regulate alleged violations of state licensing rules.

EOIR is an adjudicative body and it should not interfere in the representative-client relationship in determining what terms must be included in an agreement between counsel and a client. Attorneys also have a First Amendment right to enter into and engage in attorney-client relationships[39] and this relationship should not be regulated by the administrative tribunal.

Whether or not EOIR requires practitioners to certify that they have explained the scope of their services to their clients, EOIR should require judges to explain to respondents who appear in court with counsel who has entered a limited appearance, what the scope of that representative's appearance is. This explanation would be particularly important if the attorney does not intend to appear at the next court date.

Similarly, EOIR should not set rules regarding how an attorney structures a fee agreement with a client. CLINIC acknowledges that noncitizens facing removal are particularly vulnerable, but issues of overcharging, failing to obtain informed consent from a client, or not providing the services contracted to, are already regulated by state bar authorities.[40]

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[36] This section addresses question 6 of the ANPRM.
[37] EOIR, Immigration Court Practice Manual, at 164 (Nov. 2, 2017), https://www.justice.gov/sites/default/files/pages/attachments/2017/11/02/practicemanual.pdf.
[38] This section addresses questions 5, 8, 9, and 10 of the ANPRM.
[39] *NWIRP v. Sessions*, No. C17-716 RAJ, 2017 WL 3189032, at *2 (W.D. Wash. July 27, 2017) (finding that "offering pro bono legal assistance to immigrants subject to removal proceedings . . . fall[s] within the protections afforded by the First Amendment").
[40] *See*, *e.g.*, Maryland Attorneys' Rules of Professional Conduct, R. 19-300.1 (Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process.); New York Rules of Professional

CLINIC appreciates the opportunity to provide these comments to the ANPRM and looks forward to commenting on the proposed rule once it is published.

Please do not hesitate to contact Michelle Mendez, Director of Defending Vulnerable Populations at 540-907-1761 or mmendez@cliniclegal.org, with any questions or concerns about our recommendations.

Sincerely,

Anna Gallagher
Executive Director
Catholic Legal Immigration Network, Inc.

Conduct, R. 1.5, N.Y. Comp. Codes R. & Regs. tit. 22, § 1200.0 et seq. (prohibiting attorneys from charging excessive fees).