



Office of Public Engagement

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

## **USCIS Collaboration Session on the Unauthorized Practice of Law**

**January 12, 2010**

### *Meeting Notes*

#### **I. Scope of the Problem**

- The unauthorized practice of law encompasses various activities, including:
  - Applying for benefits on behalf of an immigrant who is ineligible for those benefits
  - Misrepresentation of facts in documents submitted to USCIS
  - Accepting an applicant's money without ever submitting any documents to USCIS (this is the hardest to track because USCIS has no record of the unauthorized practitioner or documents submitted on behalf of the applicant)
  - Other examples include unauthorized practitioners who claim to be able to obtain labor certifications for employers
- Primarily a "local issue of national scale"
- Many unauthorized practitioners promise to expedite cases, and then take an applicant's money and disappear – applicants are willing to pay more to an unauthorized practitioner than they would to a private attorney because they may believe that notary publics can provide premium services (stems from a difference between the role of notary publics in the U.S. and other countries)
- Some attorneys lend their names and bar numbers to UPL practices – these attorneys can be disciplined for failure to supervise, but there is nothing that can be done to the unauthorized practitioners
- Unauthorized practitioners sell forms through their websites and conduct phone consultations
- There are companies overseas that claim to provide assistance with the "green card lottery"
- In recent years, there has been an increase in internet-based scams
- Unauthorized practitioners include ex-government officials, including previous employees of INS, USCIS, DHS, and DOS
- Unauthorized practitioners often threaten to report applicants to USCIS or ICE when they complain about fees or lack of service
- Most serious threat is mom and pop shops that advertise with flyers and in local papers or through referrals and hand out business cards advertising themselves as notary publics or attorneys
- Applicants have an incentive to protect unauthorized practitioners because once an unauthorized practitioner is caught, all cases are reopened
- Some therapists working with U visa applicants assist clients with preparing/filing forms

#### **II. Stakeholder Suggestions: Public Education Campaign**

- Audiences for Education

- Practitioners – resources for attorneys who take on cases that have been botched by unauthorized practitioners
- Applicants – centralize resources for applicants, provide a list of known practitioners to avoid, provide guidance on what an applicant should expect from an attorney or accredited representative and to beware of government or ex-government employees who claim to be able to secure immigration benefits
- USCIS employees – provide guidance to the field regarding consumer fraud
- Employers – can be harmed by unauthorized practitioners as well and are sometimes penalized with sanctions
- Other social service providers – provide information to day care providers, social workers, teachers, and others who are closely connected to the immigrant community
- Immigration judges
- Avenues for Outreach by HQ and District Offices
  - National level – partner with Department of Education and teachers’ unions
  - Local level – compile a list of trusted entities, including community leaders, places of worship, schools, consulates, employers, ESL and naturalization classes
  - Written materials may not be the best way to reach illiterate or low literate population
  - Ethnic newspapers, radio, television, public service announcements
  - Poster campaigns on public transportation
  - Partner with local CBOs to conduct “Know Your Rights” campaigns
  - Distribute written materials at field offices/Application Support Centers
  - Use naturalization information session outreach model for UPL
- Content of Materials
  - Educate applicants on what to avoid and what they should expect in their relationships with attorneys or accredited representatives (e.g. meeting in person at an office, conducting an interview, taking time to prepare the case)
  - Provide state-specific information (e.g. in NJ, preparing forms as an unauthorized practitioner is illegal and considered a felony)
  - Create a “no-use” list of unauthorized practitioners to be shared with law enforcement, USCIS employees, public, etc.
  - Strengthen the warning in the USCIS “Welcome to the United States Guide for New Immigrants”
  - Existing resources include AILA’s brochure and online guide with reporting information, Immigrant Legal Resource Center’s comic book, and the DOJ Executive Office for Immigration Review notice on notarios, visa consultants, and immigration consultants
  - Ensure that education materials reference “immigration consultants”

### **III. Stakeholder Suggestions: Building Stakeholder Capacity**

- Recognition and Accreditation Process
  - Need more training opportunities for organizations that want to become recognized and for representatives who wish to become accredited
  - USCIS should develop a standard, web-based training program
  - Annual CLE credits should be required to retain accreditation
  - Reinstate a working group with CBOs, USCIS, and BIA to discuss recognition and accreditation issues
  - Modify R&A process to take into account the fact that the skill sets needed to appear before BIA/IJ and DHS are different
- Funding

- Capacity building is difficult due to the nominal fees requirement because most CBOs operate on grants
- Allow non-profit organizations to charge a reasonable fee, which may require a federal regulation that defines “nominal fee”
- USCIS should provide grants to community based organizations to conduct outreach on UPL
- USCIS should seek to increase visibility of certain agencies to recognize that they are legitimate, trusted providers
- USCIS should work with grantors to provide resources for legitimate, trustworthy organizations
- USCIS should create a “best practices” document to be used by stakeholders and updated whenever a law is changed

#### **IV. Stakeholder Suggestions: Deterrence and Enforcement**

- Recommended USCIS steps to improve the quality of services provided by accredited representatives
  - Expand language services that USCIS offers to prevent unauthorized practitioners from appearing under the guise of serving as interpreters
  - Develop a certification system or registration process that requires practitioners to be registered with USCIS
  - Vet all Forms G-28
- Encourage reporting of UPL
  - Implement a “fruit of the poisonous tree” policy – guarantee that USCIS and ICE will not use information provided by unauthorized practitioners in an adverse decision against an applicant
  - Publicize successful prosecutions
  - Facilitate ease of enforcement
  - Create protection for victims similar to the U visa
  - Create a list of where to report UPL by state and/or publicize AILA’s list
  - Allow people to submit anonymous letters about UPL to local/state law enforcement, CBOs, etc.
- Establish certain requirements of practitioners
  - Require consultants to inform clients that they are not attorneys or accredited representatives
  - Require a contract between consultants and clients
  - Require consultants to pay a fee or to be bonded
- Create a disciplinary process for non-attorneys
  - Establish a way for CBOS, victims, states, etc. to report unauthorized practitioners who have crossed state lines and set up new operations
- Protect integrity of website
  - Partner with Google and other search engines to regulate domain names
  - Write a regulation granting USCIS authority to monitor copy-cat websites and protect DHS/USCIS emblem and enforce against those who violate it
- Contact small business associations to explore any potential role in deterrence/enforcement
- Connect local USCIS FDNS offices with state and local authorities and train USCIS officers to serve as subject matter experts on UPL to liaise with law enforcement

