

**SECTION 404.  
REGULATION OF IMMIGRATION ASSISTANCE.<sup>1</sup>**

**IRLI Comment:** Both temporary non-immigrants and illegal aliens frequently experience exploitation by members of their own linguistic communities who purport to provide advice and assistance to remain in the United States. Section 404 limits the unlicensed practice of immigration law, and requires persons and organizations that provide “assistance” to fully and expressly inform their clients of the limitations of such services, in their native languages if other than English.

(A) The purpose and intent of this section is to establish and enforce standards of ethics in the profession of immigration assistance by private individuals who are not licensed attorneys.

(B) Definitions .-- As used in this section, the term:

(1) “Compensation” means money, property, services, promise of payment, or anything else of value;

(2) “Employed by” means that a person is on the payroll of the employer and the employer deducts from the employee’s paycheck social security and withholding taxes or that a person receives compensation from the employer on a commission basis or as an independent contractor;

(3) “Immigration assistance service” means any information or action provided or offered to customers or prospective customers related to immigration matters, excluding legal advice, recommending a specific course of legal action or providing any other assistance that requires legal analysis, legal judgment, or interpretation of the law;

(4) “Immigration matter” means any proceeding, filing, or action affecting the nonimmigrant, immigrant, or citizenship status of any person that arises under:

(a) Immigration and naturalization law, executive order, or presidential proclamation of the United States or any foreign country; or

(b) Action of the United States Department of Labor, the United States Department of State, the United States Department of Homeland Security, or the United States Department of Justice.

(C) Any person who provides or offers to provide immigration assistance service may perform only the following services:

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<sup>1</sup> Source: GA SB 529 § 6.

- (1) 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;
  - (2) Transcribing responses to a government agency form which is related to an immigration matter but not advising a customer as to his or her answers on those forms;
  - (3) Translating information on forms to a customer and translating the customer's answers to questions posed on those forms;
  - (4) Securing for the customer supporting documents currently in existence, such as birth and marriage certificates, which may be needed to be submitted with government agency forms;
  - (5) Translating documents from a foreign language into English;
  - (6) Notarizing signatures on government agency forms, if the person performing the service is a notary public commissioned in the State of [#####] and is lawfully present in the United States;
  - (7) Making referrals, without fee, to attorneys who could undertake legal representation for a person in an immigration matter;
  - (8) Preparing or arranging for the preparation of photographs and fingerprints;
  - (9) Arranging for the performance of medical testing (including X-rays and AIDS tests) and the obtaining of reports of such test results;
  - (10) Conducting English language and civics courses; and
  - (11) Performing such other services that the office of the [Secretary of State] determines by rule may be appropriately performed by such persons in light of the purposes of this chapter.
- (D) The following persons are exempt from this chapter:
- (1) An attorney licensed to practice law in the state of [#####], or an attorney licensed to practice law in any other state or territory of the United States or in any foreign country when acting with the approval of a judge having lawful jurisdiction over the matter;
  - (2) A legal intern, clerk, paralegal, or person in a similar position employed by and under the direct supervision of a licensed attorney meeting the requirements in paragraph (1) of this subsection and rendering immigration assistance service in the course of employment;
  - (3) A not for profit organization recognized by the Board of Immigration Appeals under 8 C.F.R. 292.2(a), and employees of those organizations accredited under 8 C.F.R. 292.2(d)<sup>2</sup>; and

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<sup>2</sup> "... A non-profit religious, charitable, social service, or similar organization established in the United States and recognized as such by the Board may designate a representative or representatives to practice before the Service

(4) Any organization employing or desiring to employ an immigrant or nonimmigrant alien, where the organization, its employees, or its agents provide advice or assistance in immigration matters to alien or nonimmigrant alien employees or potential employees without compensation from the individuals to whom such advice or assistance is provided.

(E)(1) Nothing in this chapter shall regulate any business to the extent that such regulation is prohibited or preempted by federal law.

(2) Any person performing such services shall obtain business licenses from the office of [the Secretary of State] and as may be required by a local governing authority.

(3) Any person who provides or offers immigration assistance service and is not exempted under this chapter shall post signs at his or her place of business setting forth information in English and in every other language in which the person provides or offers to provide immigration assistance service. Each language shall be on a separate sign. Signs shall be posted in a location where the signs will be visible to customers. Each sign shall be at least 12 inches by 17 inches and shall contain the following statement: 'I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.'

(4) Every person engaged in immigration assistance service who is not an attorney who advertises immigration assistance service in a language other than English, whether by radio, television, signs, pamphlets, newspapers, or other written communication, with the exception of a single desk plaque, shall include in the document, advertisement, stationery, letterhead, business card, or other comparable written material the following notice in English and the language in which the written communication appears. This notice shall be of a conspicuous size, if in writing, and shall state: 'I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.' If such advertisement is by radio or television, the statement may be modified but must include substantially the same message.

(5) Any person who provides or offers immigration assistance service and is not exempted under this chapter shall not, in any document, advertisement, stationery, letterhead, business card, or

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alone or the Service and the Board (including practice before the Immigration Court). Such organization must establish to the satisfaction of the Board that: (1) It makes only nominal charges and assesses no excessive membership dues for persons given assistance; and (2) It has at its disposal adequate knowledge, information and experience.”

other comparable written material, literally translate from English into another language terms or titles including, but not limited to, notary public, notary, licensed, attorney, lawyer, or any other term that implies the person is an attorney.

(6) No person engaged in providing immigration services who is not exempted under this chapter shall do any of the following:

(a) Accept payment in exchange for providing legal advice or any other assistance that requires legal analysis, legal judgment, or interpretation of the law;

(b) Refuse to return documents supplied by, prepared on behalf of, or paid for by the customer upon the request of the customer. These documents must be returned upon request even if there is a fee dispute between the immigration assistant and the customer;

(c) Represent or advertise, in connection with the provision assistance in immigration matters, other titles or credentials, including but not limited to 'notary public' or 'immigration consultant,' that could cause a customer to believe that the person possesses special professional skills or is authorized to provide advice on an immigration matter, provided 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; the term 'notary public' may not be translated to another language;

(d) Provide legal advice, recommend a specific course of legal action, or provide any other assistance that requires legal analysis, legal judgment, or interpretation of the law; or

(e) Make any misrepresentation or false statement, directly or indirectly, to influence, persuade, or induce patronage.

(F) Penalties. -- (1) Violations of this section may result in a fine of up to \$1,000.00 per violation. A fine charged pursuant to this section shall not preempt or preclude additional appropriate civil or criminal penalties.

(2) Any person who violates any provision of this section shall be guilty of a [misdemeanor] for a first offense and a [felony] for a second or subsequent offense committed within five years of a previous conviction for the same offense.

(G) [The Secretary of State] shall issue rules not inconsistent with this section for the implementation, administration, and enforcement of this chapter."