

UPL ADVISORY OPINION NO 2013-1

Immigration Practice: Notarios, Translators, and Accredited Representatives

Facts:

A, who is a non-lawyer, studies materials online and at the library and feels confident he can help people who have immigration concerns. He sets up a business called Immigration Forms Oregon, which gives people immigration advice for a modest fee. Immigration Forms Oregon advises its customers about what immigration benefits are available, how to obtain those benefits, what forms to use, and how to deal with immigration proceedings.

B, who is a non-lawyer, agrees to help a friend translate an immigration form into her native language for free. *B* does not select the form, does not give her friend advice on how to fill out the form, and does not otherwise give her friend any legal advice.

C is an “accredited representative” who provides immigration advice at a nonprofit organization approved by the Board of Immigration Appeals.

Questions:

1. Is *A* or his business, Immigration Forms Oregon, engaged in the unlawful practice of law?
2. Is *B* engaged in the unlawful practice of law?
3. Is *C* engaged in the unlawful practice of law?

Conclusion:

1. Yes. *A* and his business, Immigration Forms Oregon, are engaged in the unlawful practice of law in violation of ORS 9.160. *A* and Immigration Forms Oregon are also in violation of ORS 9.280 because they are acting as immigration consultants.

2. No, qualified. As long as *B* only translates the forms, but does not select forms, provide advice on how to fill out forms, or other-

wise provide her friend with legal advice, she is not engaged in the unlawful practice of law.

3. No, qualified. Assuming *C* is accredited by the Board of Immigration Appeals to serve as an accredited representative, she is not engaged in the unlawful practice of law.

Discussion:

I. Question No. 1 (Notario)

In Question 1, *A* is engaged in the unlawful practice of law because he is not a lawyer licensed to practice law and he is not otherwise authorized by federal law to provide immigration advice. ORS 9.160; ORS 9.280. *A* may not (1) give immigration advice to others; (2) select immigration forms for others; or (3) fill in immigration forms for others for compensation.

Generally, non-lawyers are prohibited from providing legal advice on immigration matters to others. ORS 9.160.¹ Immigration matters are complicated. In order to determine whether an individual is entitled to apply for status or other relief, it is necessary to have a thorough understanding of the law. A non-lawyer who selects forms or advises clients in an immigration case would be engaged in the unlawful practice of law because “no immigration case is routine and . . . immigration law is complex and constantly changing.” *Oregon State Bar v. Ortiz*, 77 Or App 532, 536, 713 P2d 1068 (1986).

A is also engaged in the unlawful practice of law because he is improperly acting as an immigration consultant. Under Oregon law, non-lawyers are generally prohibited from acting as immigration consultants. ORS 9.280(1).² A person acts as an immigration consultant when he or she accepts a fee in return for giving “advice on an immigration matter, including but not limited to drafting an application, brief, document,

¹ This prohibition does not apply to any person or qualified designated entity authorized by federal law to represent persons before the United States Department of Homeland Security or the United States Department of Justice. ORS 9.280(3); *see* Question 3.

² *See supra*, footnote 1.

petition or other paper or completing a form provided by a federal or state agency in an immigration matter.” ORS 9.280(2)(a).

II. Question No. 2 (Translator of Immigration Forms)

In Question 2, *B* is not likely to be engaged in the unlawful practice of law. The translation of an immigration form for another, without more, does not constitute the unlawful practice of law. *Cf. Oregon State Bar v. Fowler*, 278 Or 169, 563 P2d 674 (1977) (mere filling in of real estate forms at direction of a customer).

B is not acting as an immigration consultant because she is not charging a fee to help her friend. ORS 9.280(2)(a).

Even so, *B* is prohibited from selecting the appropriate immigration forms for her friend to use, giving advice on how to fill out the form, and giving legal advice on the friend’s immigration matter. *See Ortiz*, 77 Or App at 536.

III. Question No. 3 (*Accredited Representatives*)

In Question 3, *C* is not engaged in the unlawful practice of law provided that she is an accredited representative of an organization approved by the Board of Immigration Appeals (“BIA”), and she charges only a nominal fee for her immigration services.

Federal regulations allow a person who works for a qualified nonprofit organization, and who has been accredited by the BIA, to represent another person in immigration matters. 8 CFR §292.1(a)(4). Qualified nonprofit organizations include nonprofit religious, charitable, social service, or similar organizations established in the United States and recognized as such by the BIA. 8 CFR §292.2(a). Qualified nonprofit organizations “may apply for accreditation for persons of good moral character” to serve as their representatives. 8 CFR §292.2(d). Accreditation is valid for only three years, but may be renewed. *Id.* Accreditation terminates when the BIA’s recognition of the accredited organization ceases or when the accredited representative’s employment with such organization is terminated. *Id.* The BIA maintains a list of all accredited organizations and representatives.