

DISCLAIMER:

The following information is not legal advice or legal representation. It is provided as a public service by the ABA Commission on Immigration for informational and educational purposes only.

If you need legal advice, you should consult either a licensed immigration attorney or a Board of Immigration Appeals (BIA) accredited representative. Information on how to find an immigration attorney is below.

The Commission does not provide legal advice to individuals, and is therefore unable to respond to requests for legal assistance. We welcome your comments, questions, concerns and suggestions about the usefulness of this information. You may contact the Commission at 202-662-1005 or immcenter@abanet.org.

The DANGERS of “NOTARIO” FRAUD

“Notarios” or “Immigration Consultants” operate throughout the United States and use false advertising and fraudulent contracts for services which cannot be provided. They exploit the trust of immigrants who are new to this country, unfamiliar with our language and legal system, and who assume that a “notario” is a lawyer with a duty to protect their interests. Notarios hold themselves out as qualified to help immigrants obtain lawful immigration status, and may charge a lot of money for help that they never provide. Often, immigrants’ permanently lose opportunities to pursue immigration relief because a notario has damaged their case. The information on this website is designed to:

- ❖ **Help immigrants** determine whether they have been defrauded by a notario
- ❖ **Inform immigrants** about their rights and where to go for help
- ❖ **Educate immigrants** in order to prevent them from being exploited in the future
- ❖ **Support advocates** who represent immigrants who have been defrauded

You may be the victim of a notario if:

- You sought assistance with your immigration case from someone who called themselves a:
 - Notario
 - Notario Publico
 - Visa Consultant
 - Immigration Consultant
- *In the United States, a “notary” or “notary public” is NOT a licensed attorney. It is someone appointed by the state government to witness the signing of important documents and administer oaths.**
- The person told you that you could get a green card or other benefit that you were never eligible for
 - The person said he or she could get you special treatment from a government agency such as Citizenship and Immigration Services (USCIS) or Immigration & Customs Enforcement (USICE)
 - The person kept your original documents and/or your court notices and made you pay a fee in order to get them back
 - The person asked you to sign blank forms

- The person took your money and did not provide you with any services
- The person falsely told you he or she was a licensed attorney

How to Protect Yourself: Ask the Right Questions

Before you meet with someone to assist you with your immigration case:

- Ask where the person went to law school, and in what state the person, or their boss (if you speak with their assistant or paralegal) is licensed to practice law. Call the relevant state bar to confirm this information, and ask if anyone has ever filed a complaint against the person. Go to <http://www.abanet.org/legaled/baradmissions/barcont.html> for contact information for state bars.
- If the person is not an attorney, but says he or she is an “accredited representative,” you can confirm this at <http://www.usdoj.gov/eoir/statspub/accreditedreproster.pdf>. Accredited representatives are authorized to represent clients in immigration matters.
- Ask if you are required to pay for an initial consultation, and if so, how much it will cost.
- Ask how much the person’s fee is if you decide to hire them or their firm to represent you; ask if the person charges by the hour or if you have to pay a flat fee up front.
- Ask for references (former clients) that you can contact.

During the consultation:

- Ask to see the person’s credentials.
- Ask if you can leave photocopies of your documents with the person, instead of leaving the originals.
- Ask if you will have to pay to receive your court notices or other documents.

An attorney or “accredited representative” should:

- Explain your legal options, including the fact that you may not be eligible for immigration relief.
- Provide you with a written contract explaining what you have hired him or her to do, and how much you will have to pay for services.
- Allow you sufficient time to read and understand the contract before signing it, and have it translated if necessary. An attorney should never ask you to sign blank forms, or any document without reading it first. An attorney should not require you to sign the contract on the spot, if you would like to take more time to read it over and mail it back or bring it to your next appointment.

If you think you have been the victim of a notario:

- Contact a legal services organization for help
 - For a list of low- or no-cost immigration legal service providers in your state, go to the **American Bar Association** (ABA) Commission on Immigration’s website at

<http://www.abanet.org/publicserv/immigration/probono.shtml> and click on your state in the map

- **Catholic Legal Immigration Network, Inc (CLINIC)** has offices throughout the country, and their website is www.cliniclegal.org; also see <http://www.cliniclegal.org/Legalization/beware.html> for information on how to protect yourself from notario fraud
 - If you are able to afford to pay an attorney, the **American Immigration Lawyers Association (AILA)** has an Immigration Lawyer Referral Service. For information, go to <http://www.aila.org/content/default.aspx?docid=10180>
- To find out the status of your immigration case, you can call the Immigration Court toll free at 1-800-898-7180; make sure to have your Alien Registration Number (A#)

Notarios Violate Federal and State Law

Federal Laws

8 C.F.R. section 292.1 et. seq. (1975) provides that:

- Only licensed attorneys and “accredited representatives” as established by the Board of Immigration Appeals under 8 C.F.R. section 292.2 can *practice immigration law or represent clients in immigration matters*. Students or law school graduates can represent immigrants but only under the supervision of a licensed attorney.
- *Practicing immigration law* includes the following activities: “the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with the Service [USICE, or USCIS] or any officer of the Service or the Board [of Immigration Appeals].”

Representation under 8 C.F.R. 1.1(m) includes:

- both practice and preparation, including “the study of the facts of a case and applicable laws, coupled with the giving of advice and auxiliary activities.”

Representation under 8 C.F.R. 1.1(m) does not include:

- the lawful functions of a notary including filling in blank spaces on Immigration forms so long as the person is receiving only nominal pay and doesn’t hold themselves out as qualified in legal matters regarding immigration and naturalization [if you decide to seek assistance from someone who is not an accredited representative or an attorney, these activities may be allowed].

State Laws

For a list of relevant laws by state, click [here](#).

There is no federal law regulating “immigration specialists” or “assistants” other than the regulations above relating to Board of Immigration Appeals (BIA) “accredited representatives.” Therefore, some states will allow non-attorneys to assist immigrants so long as they are not *practicing law* as defined by 8 C.F.R. section 292.1 or *representing* a client as defined by 8 C.F.R. 1.1(m). Additionally, many states expressly prohibit people from

representing themselves as immigration attorneys or BIA accredited representatives, and contain civil or criminal remedies for violations of such provisions.

Attorney Discipline

Model Rules Of Professional Conduct

Attorneys may be disciplined under the following rules:

- Rule 1.1 Competence
 - A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.
- Rule 4.1 Truthfulness in Statements to Others
 - A lawyer shall not knowingly make a false statement of material fact to a third person; or fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited because of confidentiality.

For information on how to file a complaint against an attorney, go to: <http://www.abanet.org/legaled/baradmissions/barcont.html> and contact the relevant state bar, or go to: <http://www.abanet.org/cpr/regulation/scpd/disciplinary.html> for a list of disciplinary agencies.