CITY OF CHICAGO

RULES

IMMIGRATION ASSISTANCE PROVIDER RULES

Last Updated: March 6, 2013

Mayor Rahm Emanuel **Commissioner Maria Guerra Lapacek**

BY AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF BUSINESS AFFAIRS AND CONSUMER PROTECTION PURSUANT TO **CHAPTERS 2-25, 4-4, AND 4-6**, THE FOLLOWING RULES REGARDING **IMMIGRATION ASSISTANCE PROVIDERS** ARE ADOPTED HEREIN.

By Order of the Commissioner:

Signed: _____ Date: July 28, 2015
Commissioner Maria Guerra Lapacek

Published: **March 6, 2013**
Effective: **March 6, 2013**

IMMIGRATION ASSISTANCE PROVIDERS
RULES AND REGULATIONS

TABLE OF CONTENTS

Section	Title	Page
	Definitions	4
Section I.	Application	4
Section II.	Permissible Services	4
Section III.	Fees	5
Section IV.	Contracts	6
Section V.	Signs	7
Section VI.	Prohibited Practices	7
Section VII.	Payment of Fines	8
Appendix	Municipal Code of Chicago 4-6-240	9

IMMIGRATION ASSISTANCE PROVIDERS RULES AND REGULATIONS

DEFINITIONS

"Commissioner" means the Commissioner of the Department of Business Affairs and Consumer Protection of the City of Chicago.

"DHS" means the United States Department of Homeland Security or its successor department.

"**Legal Holiday**" means the City's official legal holidays. These are New Year's Day;' Dr. Martin Luther King , Jr.'s Birthday; Lincoln's Birthday; Washington's Birthday; Pulaski Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day; and Christmas Day.

"Ordinance" means Section 4-6-240 of the Municipal Code of Chicago.

SECTION I. APPLICATION

IAP1.01 In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, a renewal of, a regulated business license to engage in the business of immigration assistance shall be accompanied by the following additional information:

a) A copy of the registration statement filed by such person with the Office of the Illinois Attorney General, as required under 14 Ill.Adm.Code 485.10.

b) Verification of malpractice insurance or of a surety bond filed by such person with the Office of the Illinois Attorney General, as required under 14 Ill.Adm.Code 485.20.

SECTION II. PERMISSIBLE SERVICES

IAP2.01 In addition to the services allowed pursuant to Section 4-6-240(c); and Section 4-6-240(c) (11) of the Ordinance, immigration assistance providers may also

prepare and complete, on behalf of a customer, form letters, DHS forms or affidavits to be sent to government agencies IF:

a) The person providing such service to a customer makes no claim regarding the customer's eligibility for immigration or naturalization or related benefits or procedures; and

b) Such document is confined to requesting information regarding the status of a previously made application; and

c) Such document is a DHS form or a form that has been prepared or approved by a licensed attorney; and

d) Completion of the document does not involve making or using any legal judgment or providing information with potentially adverse legal consequences.

IAP 2.02 Persons subject to these rules may also conduct English and Civics courses so long as the curriculum does not involve the provision of legal advice on immigration matters or an analysis of any individual student's eligibility for immigration benefits or naturalization;

SECTION III. FEES

IAP 3.01 The following shall be the maximum fees which may be charged by any person subject to these regulations:

1) Preparation and completion of forms, letters and affidavits – The lower of either: $10.00 per page completed or $5.00 per quarter hour (not including applicable filing fees)

2) Photocopies – $0.25 per page

3) Change of Address – $3.00

4) Fingerprints – $10.00

5) Arranging for the preparation of photographs and fingerprints - $5.00 per quarter hour

6) Transcribing responses to a government agency form that is related to an immigration matter - $5.00 per quarter hour .

7) Arranging for the performance of medical testing (including X-rays and AIDS tests) and the obtaining of reports of such test results. - $5.00 per quarter hour.

8) Executing any procedures necessary to obtain a document required to complete immigration forms - $3.00

9) Translation of Foreign Documents – The lower of either $10.00 per page for the translation of a non-English language into English where such translation is required for immigration forms; or $5.00 per quarter hour. (translation fee may not be charged if translation is not submitted to INS)

10) Judicial Records – $15.00

11) Notarizing Immigration Forms - $1.00

12) A maximum of $75.00 for one complete application. Fees authorized under this subsection shall not include application fees required to be submitted with immigration applications.

IAP 3.02 No person subject to these regulations may charge a customer for the provision of more photographs than are required by and provided to DHS as part of any submission that is prepared in whole or in part by such person.

IAP 3.03 Persons subject to these regulations may charge a fee for notarizing documents; provided, however, that such fees shall not exceed the maximum fees permitted for such notarial act pursuant to Section 3-104 of the Illinois Notary Public Act, as amended, codified at 5 ILCS 312/1-101, et seq.

IAP 3.04 Persons subject to these regulations may charge reasonable fees for the provision of English and Civics courses; provided, however, that the fees charged for such courses shall not exceed the fees per classroom hour of instruction set forth in 14 Ill.Adm.Code 485.40(d) or its successor provision.

SECTION IV. CONTRACTS

IAP 4.01 This Section IV shall not apply to a not-for-profit organization that provides advice or assistance in immigration matters to clients without charge beyond a reasonable fee to reimburse the organization's or clinic's reasonable costs relating to providing immigration services to that client.

IAP 4.02 As used in **Section 4-60-240(e)(i) of the Ordinance**, the phrase "before providing any assistance in an immigration matter" means before any conversation, consultation or other communication regarding an immigration matter. For example, where a customer enters into a business premises inquiring about immigration assistance services, the immigration assistance provider or its employee or agent must begin any conversation, consultation or other communication by providing the customer with the written contract required under Section 4-60-240(e)(i) of the Ordinance.

IAP 4.03 As used in Section 4-6-240(e)(1) of the Ordinance, the phrase "provide the customer with a written contract" means to physically tender a copy of the written contract to the customer and to orally read the contract to the customer in the language the customer understands.

IAP 4.04 The customer's 3-day right to rescind the contract, as set forth in Section 4-6-240 (e)(1) of the Ordinance, is in addition to any right of cancellation provided for under Section 2B of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2B] or any other applicable statute.

1) For purposes of calculating the 3-day period set forth in Section 4-6-240 (e)(1) of the Ordinance: (1) Sunday shall not be calculated as a business day; (2) Saturday shall be calculated as a business day; and(3) Legal Holidays shall not be calculated as a business day.

2) Manner of Cancellation. The contract must inform the consumer about how she or he may cancel the contract for services.

SECTION V. SIGNS

IAP 5.01 All signage shall be the provided by the licensee.

IAP 5.02 For purposes of the requirements set forth in Section 4-6-240 (e)(3)(v) of the Ordinance, the current address of the City of Chicago Department of Business

Affairs and Consumer Protection is 121 N. LaSalle Street Chicago, IL 60602. The current telephone number is (312) 744-6060 and the current web address is www.cityofchicago.org/bacp.

SECTION VI. PROHIBITED PRACTICES

IAP 6.01 In addition to the prohibitions listed in Section 4-6-240 (f) **of the Ordinance**, any person who provides or offers immigration assistance service and is not exempted from this Section shall not, in any document, advertisement, stationery, letterhead, business card, or 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 when, in fact, the person is not a properly licensed attorney. To illustrate, the words "notario" and "poder notarial" are prohibited under this provision.

SECTION VII. PAYMENT OF FINES

IAP 7.01 If, as a result of an administrative hearing or judicial proceeding, a person is required to pay a fine and/or restitution in connection with a violation of the Ordinance or any rule or regulation set forth herein, such person shall pay such fine and/or restitution in a timely manner. Failure to do so may result in license suspension or revocation pursuant to Section 4-4-084 of the Municipal Code of Chicago and/or render such person ineligible to renew his or her license pursuant to Section 4-4-150 of the Municipal Code of Chicago.

APPENDIX

Regulated Business License for Immigration Assistance Providers

4-6-240 Immigration assistance.

(a) *Definitions.* As used in this section:

"Immigration matter" means any proceeding, filing or action affecting the non-immigrant, immigrant or citizenship status of any person which arises under immigration and naturalization law, executive order or presidential proclamation, or which arises under action of the United States Department of Homeland Security, the United States Department of Labor, the United States Department of State or its successor department(s).

"Compensation" means money, property, services, promise of payment, or anything else of value.

"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 receives compensation from the employer on a commission basis or as an independent contractor.

"Reasonable costs" means actual costs or, if actual costs cannot be calculated, reasonably estimated cost of such things as photocopying, telephone calls, document requests, and filing fees for immigration forms, and other services and overhead costs incidental to assistance in an immigration matter.

(b) *Exemptions.* The requirements of this section shall not apply to any of the following persons if such person can prove by a preponderance of the evidence that such person is eligible for an exemption under this section: (1) an attorney licensed to practice law in the State of Illinois, to the extent the attorney renders services in immigration matters in the course of his or her practice as an attorney; (2) a legal intern, as described by rules of the Illinois Supreme Court, employed by and under the direct supervision of a licensed attorney and rendering services in immigration matters in the course of such employment; and (3) a not-for-profit organization recognized by the Board of Immigration Appeals pursuant to 8 C.F.R. § 292.2(a), as amended, and employees of such organizations accredited pursuant to 8 C.F.R. § 292.2(d), as amended. Provided, however, that nothing in this section shall regulate any business to the extent that such regulation is prohibited by state or federal law.

(c) *Scope of license.* A license under this section authorizes the licensee to perform only the following services: (1) providing the customer with a government agency form

appropriate to the customer's needs if only that form can reasonably be considered appropriate and if the selection of the form does not involve a legal judgment; (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 submit 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 of the State of Illinois; (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 A.I.D.S. tests) and the obtaining of reports of such test results; (10) conducting English language and civics courses; and (11) such other services that the commissioner determines by rule may be appropriately performed by such persons to help immigrants reside and work in the United States, establish and maintain stable families and business relationships, promote honesty and fair dealing and preserve the public confidence.

(d) *Departmental duties.*

(1) The commissioner may promulgate regulations establishing maximum fees that may be charged for the services described in items (1) through (11), inclusive, of subsection (c) of this section. Provided, however, that such maximum fees shall be reasonable in light of the costs of providing such services and the degree of professional skill required to provide the services.

(2) If the commissioner determines that a person has engaged in, is engaging in or is about to engage in a practice prohibited by this section, the commissioner may: (i) order the person to discontinue the prohibited practice; (ii) order the person to pay restitution to persons aggrieved by the practice; (iii) take action to revoke or suspend the regulated business license of the person; and/or (iv) request the corporation counsel to bring an action in circuit court for injunctive or such other relief as may be appropriate.

(e) *Legal duties.* Each licensee engaged in the business of immigration assistance shall have a duty to:

(1) before providing any assistance in an immigration matter, provide the customer with a written contract that includes the following provisions: (i) an explanation of the services to be performed; (ii) identification of all compensation and costs to be charged to the customer for the services to be performed; (iii) a statement that documents submitted in support of an

application for non-immigrant, immigrant or naturalization status may not be retained by the licensee for any purpose, including payment of compensation or costs; (iv) a statement, which shall be on the face of the contract and shall be in print larger and more conspicuous than other print on the contract, that the licensee is not an attorney and may not perform legal services; (v) a statement that the customer may rescind the contract within 72 hours, which shall be conspicuously set forth in the contract in understandable language substantially similar to "You may cancel this contract within 3 days and get your money back for work not performed." The written contract required under this subsection (e)(1) shall be in both English and in the language of the customer. A copy of the contract shall be provided to the customer upon the customer's execution of the contract. The customer shall have the right to rescind such contract within 72 hours of his or her signing of the contract.

(2) upon demand of the customer, return to the customer any documents submitted in support of an application for non-immigrant, immigrant or naturalization status ;

(3) post signs at the licensee's place of business, setting forth in English and in every other language in which the person provides or offers to provide assistance in immigration matters. 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 11 inches by 17 inches, and shall contain the following: (i) the statement "I am not an attorney"; (ii) if applicable, the statement that "I am not accredited to represent you before the United States Department of Homeland Security"; (iii) the fee schedule; (iv) the statement that "You may cancel any contract within three days and get your money back for services not performed"; (v) the statement that "If you have a complaint about this business, contact: City of Chicago, Department of Business Affairs and Consumer Protection (Insert the Department's current address). (Insert, within a box in bold-faced type, the Department's current telephone number and current web address to which complaints may be sent). Business name: (Insert legal name of business). Business address: (Insert address of business). Business phone: (Insert current business phone number) and (vi) such other additional information as the commissioner may require by rule;

(4) if the licensee or any other person is engaged in the business of fingerprinting or providing fingerprinting services at the licensed premises, conspicuously display in each location of business, in a clearly visible place, a sign stating the following: "This Office Is Not An Authorized Government Agency. This Office Is Not A Part Of And Is Not Associated With The United States Department of Homeland Security Or Any Government Agency. Fingerprints Taken At This Location Will Not Be Accepted By The United States Department of Homeland Security For Any Purpose." Such sign shall be (i) in black print on a white background, in letters no smaller than 48-point typeface; and (ii) posted in the following languages: English, Spanish, Polish, Korean, Arabic, Hindi and Mandarin.

(f) *Advertising – Additional duties.*

(1) Every licensee who advertises immigration assistance services by signs, pamphlets, newspapers or any other means shall post or otherwise include with the advertisement a notice in English and in the language in which the advertisement appears. The notice shall be of a conspicuous size and shall state the following: "The individual providing assistance to you is not at attorney licensed to practice law or accredited by the board of immigration appeals to provide representation to you before the bureau of citizenship and immigration services, the department of law, the department of state or any immigration authorities and may not give legal advice or accept fees for legal advice.:

(2) No advertisement for immigration assistance services shall expressly or implicitly guarantee any particular government action, including, but not limited to, the granting of residency or citizenship status.

(g) *Prohibited acts.* It shall be unlawful for any licensee engaged in the business of immigration assistance to:

(1) in the course of dealing with customers or prospective customers, (i) make any statement that the person can or will obtain special favors from or has special influence with the United States Department of Homeland Security or any other government agency;
(ii) retain any compensation for service not performed; (iii) refuse to return documents supplied by, prepared by, or paid for by the customer upon the request of the customer, even if there is a fee dispute between the immigration assistant and the customer; (iv) represent or to advertise, in connection with the provision of assistance in immigration matters, other titles or credentials, including, but not limited to, "notary public" or "immigration consultant," that could reasonably cause a customer to believe that the person possesses any form of license, accreditation, or official authorization to provide advice on an immigration matter. Provided, however, that a notary public appointed by the Illinois Secretary of State may use the term "notary public" if such use is accompanied by the statement that the person is not an attorney; and (v) to give any legal advice concerning an immigration matter;

(2) state, imply, offer or otherwise represent that a person, business, agency, office or organization is authorized to provide fingerprinting services which will be accepted by the United States Department of Homeland Security for the process of DHS applications or for any other purpose;

(3) charge fees, directly or indirectly, for referring an individual to an attorney or for any immigration matter not authorized subsection (c) of this section. Provided, however, that a person may charge a fee for notarizing documents as permitted by the Illinois Notary Public Act;

(4) make any guarantee or promise to a customer, unless there is a basis in fact for such guarantee or promise, and the guarantee or promise is in writing;

(5) represent that a fee may be charged, or to charge a fee, for the distribution, provision or submission of any official document or form issued or promulgated by a state or federal governmental entity, for the referral of the customer to another person or entity that is qualified to provide services or assistance which the licensee will not provide;

(6) disclose any information to, or file any forms or documents with, immigration or other authorities without the knowledge or consent of the customer.

(g) *Penalty.* In addition to any other penalty provided by law, any person who violates any provision of this section or any rule or regulation promulgated thereunder shall be subject to a fine of not less than $250.00 nor more than $2,500.00 for the first offense and not less than $500.00 nor more than $5,000.00 for a second or any subsequent offense, or imprisonment for a period not to exceed six months, or both, for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(h) *Private right of action.* Any person aggrieved by any violation of this section or any rule or regulation promulgated thereunder may bring an action in an appropriate court against any person subject to this section, for injunction against the violation or for such other or additional relief as may be appropriate to deter, prevent or compensate for the violation. It is the express intention of the city council that remedies for violation of this ordinance shall be cumulative.