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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.92.2] (*Division 8 added by Stats. 1941, Ch. 44.*)

CHAPTER 19.5. Immigration Consultants [22440 - 22449] (*Chapter 19.5 repealed (as Chapter 20) and added by Stats. 1986, Ch. 248, Sec. 11.*)

22440. It is unlawful for any person, for compensation, other than persons authorized to practice law or authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services, to engage in the business or act in the capacity of an immigration consultant within this state except as provided by this chapter.

(Amended by Stats. 2004, Ch. 557, Sec. 1. Effective January 1, 2005.)

22441. (a) A person engages in the business or acts in the capacity of an immigration consultant when that person gives nonlegal assistance or advice on an immigration matter. That assistance or advice includes, but is not limited to, the following:

- (1) Completing a form provided by a federal or state agency but not advising a person as to their answers on those forms.
- (2) Translating a person's answers to questions posed in those forms.
- (3) Securing for a person supporting documents, such as birth certificates, which may be necessary to complete those forms.
- (4) Submitting completed forms on a person's behalf and at their request to the United States Citizenship and Immigration Services.
- (5) Making referrals to persons who could undertake legal representation activities for a person in an immigration matter.

(b) "Immigration matter" means any proceeding, filing, or action affecting the immigration or citizenship status of any person which arises under immigration and naturalization law, executive order or presidential proclamation, or action of the United States Citizenship and Immigration Services, the United States Department of State, or the United States Department of Labor.

(c) "Compensation" means money, property, or anything else of value.

(d) Every person engaged in the business or acting in the capacity of an immigration consultant shall only offer nonlegal assistance or advice in an immigration matter as defined in subdivision (a). Any act in violation of subdivision (a) is a violation of this chapter.

(Amended by Stats. 2004, Ch. 557, Sec. 2. Effective January 1, 2005.)

22441.1. (a) A person engaged in the business or acting in the capacity of an immigration consultant shall satisfactorily pass a background check conducted by the Secretary of State.

(b) The Secretary of State shall disqualify an individual from acting as an immigration consultant for any of the following reasons:

- (1) Conviction of a felony.
- (2) Conviction of a disqualifying misdemeanor where not more than 10 years have passed since the completion of probation. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this paragraph. The list of disqualifying misdemeanors shall be the same as the disqualifying misdemeanors applicable to notaries public appointed and commissioned pursuant to Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of the Government Code.
- (3) Failure to disclose any arrest or conviction in the disclosure form required pursuant to subdivision (c) of Section 22443.1.

(c) The Secretary of State shall complete a background check on every person engaged in the business or acting in the capacity of an immigration consultant who was bonded and qualified pursuant to this chapter on or before December 31, 2006.

(d) The Secretary of State shall not file a bond, disclosure form, or photograph from a person who has failed to pass the background check required by this section.

(Added by Stats. 2006, Ch. 605, Sec. 2. Effective January 1, 2007.)

22442. (a) Every person engaged in the business, or acting in the capacity of, an immigration consultant who enters into a contract or agreement with a client to provide services shall, prior to providing any services, provide the client with a written contract, the contents of which shall be prescribed by the Department of Consumer Affairs in regulations.

(b) The written contract shall include all provisions relating to the following:

(1) The services to be performed. Each service to be performed shall be itemized with an explanation of the purpose and process of each service.

(2) The cost of each itemized service to be performed.

(3) There shall be printed on the face of the contract in 10-point boldface type a statement that the immigration consultant is not an attorney and may not perform the legal services that an attorney performs.

(4) The written contract shall list the documents to be prepared by the immigration consultant, shall explain the purpose and process of each document, and shall list the cost for preparing each document.

(5) The written contract shall state the purpose for which the immigration consultant has been hired and the actions to be taken by the immigration consultant regarding each document, including the agency and office where each document will be filed and the approximate processing times according to current published agency guidelines.

(6) The written contract shall include a provision that informs the client that he or she may report complaints relating to immigration consultants to the Executive Office for Immigration Review of the United States Department of Justice. The written contract shall also include a provision stating that complaints concerning the unauthorized practice of law may be reported to the State Bar of California. These required provisions shall include the toll-free telephone numbers and Internet Web sites of those entities.

(c) An immigration consultant shall not include provisions in the written contract relating to either of the following:

(1) Any guarantee or promise, unless the immigration consultant has some basis in fact for making the guarantee or promise.

(2) Any statement that the immigration consultant can or will obtain special favors from or has special influence with the United States Citizenship and Immigration Services, or any other governmental agency, employee, or official, that may have a bearing on a client's immigration matter.

(d) The provisions of the written contract shall be stated both in English and in the client's native language.

(e) A written contract is void if it is not written pursuant to subdivision (d).

(f) The client shall have the right to rescind the contract within 72 hours of signing the contract. The contents of this subdivision shall be conspicuously set forth in the written contract in both English and the client's native language.

(g) An immigration consultant shall not make the statements described in subdivision (c) orally to a client.

(h) Except if required pursuant to subparagraph (B) of paragraph (2) of subdivision (c) of Section 22442.6, this section does not apply to employees of nonprofit, tax-exempt corporations who help clients complete application forms in an immigration matter free of charge or for a nominal fee, including reasonable costs, consistent with that authorized by the Board of Immigration Appeals under Section 292.2 of Title 8 of the Code of Federal Regulations.

(Amended by Stats. 2013, Ch. 574, Sec. 3. (AB 1159) Effective October 5, 2013.)

22442.1. (a) A person engaged in the business or acting in the capacity of an immigration consultant shall provide a signed receipt to a client for each payment made by that client. The receipt shall be typed or computer generated on the consultant's letterhead.

(b) A statement of accounting for the services rendered and payments made shall be provided to the client every two months, shall be typed or computer generated on the immigration consultant's letterhead, and shall display the individual charges and total charges for services and the client's payments offsetting those charges. The consultant shall provide the client a written translation of the statement in the client's native language.

(Added by Stats. 2003, Ch. 384, Sec. 2. Effective January 1, 2004.)

22442.2. (a) An immigration consultant shall conspicuously display in his or her office a notice that shall be at least 12 by 20 inches with boldface type or print with each character at least one inch in height and width in English and in the native language of the immigration consultant's clientele, that contains the following information:

- (1) The full name, address, and evidence of compliance with any applicable bonding requirement including the bond number, if any.
- (2) A statement that the immigration consultant is not an attorney.
- (3) The services that the immigration consultant provides and the current and total fee for each service.
- (4) The name of each immigration consultant employed at each location.

(b) Prior to providing any services, an immigration consultant shall provide the client with a written disclosure in the native language of the client that shall include the following information:

- (1) The immigration consultant's name, address, and telephone number.
- (2) The immigration consultant's agent for service of process.
- (3) The legal name of the employee who consulted with the client, if different from the immigration consultant.
- (4) Evidence of compliance with any applicable bonding requirement, including the bond number, if any.

(c) (1) Except as provided in paragraph (2) or (3), an immigration consultant who prints, displays, publishes, distributes, or broadcasts, or who causes to be printed, displayed, published, distributed, or broadcasted, any advertisement for services as an immigration consultant, within the meaning of Section 22441, shall include in that advertisement a clear and conspicuous statement that the immigration consultant is not an attorney.

(2) Notwithstanding paragraph (1), a person engaging in the business or acting in the capacity of an immigration consultant who is not licensed as an attorney in any state or territory of the United States, but is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services, shall include in any advertisement for services as an immigration consultant a clear and conspicuous statement that the immigration consultant is not an attorney but is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services.

(3) Notwithstanding paragraph (1), a person who is not an active member of the State Bar of California, but is an attorney licensed in another state or territory of the United States and is admitted to practice before the Board of Immigration Appeals or the United States Citizenship and Immigration Services, shall include in any advertisement for immigration services a clear and conspicuous statement that he or she is not an attorney licensed to practice law in California but is an attorney licensed in another state or territory of the United States and is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services.

(4) If an advertisement subject to this subdivision is in a language other than English, the statement required by this subdivision shall be in the same language as the advertisement.

(Amended by Stats. 2004, Ch. 557, Sec. 4. Effective January 1, 2005.)

22442.3. (a) An immigration consultant shall not, with the intent to mislead, literally translate, from English into another language, any words or titles, including, but not limited to, "notary public," "notary," "licensed," "attorney," or "lawyer," that imply that the person is an attorney, in any document, including an advertisement, stationery, letterhead, business card, or other comparable written material describing the immigration consultant. As provided in this subdivision, the literal translation of the phrase "notary public" into Spanish as "notario publico" or "notario," is expressly prohibited.

(b) For purposes of this section, "literal translation of" or "to literally translate" a word, title, or phrase from one language means the translation of a word, title, or phrase without regard to the true meaning of the word or phrase in the language that is being translated.

(c) An immigration consultant may not make or authorize the making of any verbal or written references to his or her compliance with the bonding requirements of Section 22443.1 except as provided in this chapter.

(d) A violation of subdivision (a) or (c) by an immigration consultant shall constitute a violation of subdivision (a) of Section 6126.

(e) (1) In addition to the remedies and penalties prescribed in this chapter, a person who violates this section shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) per day for each violation, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney.

(2) In assessing the amount of the civil penalty, the court may consider relevant circumstances presented by the parties to the case, including, but not limited to, the following:

(A) The nature and severity of the misconduct.

(B) The number of violations.

(C) The length of time over which the misconduct occurred, and the persistence of the misconduct.

(D) The willfulness of the misconduct.

(E) The defendant's assets, liabilities, and net worth.

(3) If the Attorney General brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If a district attorney brings the action, the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If a city attorney brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(4) The court shall grant a prevailing plaintiff reasonable attorneys' fees and costs.

(Amended by Stats. 2013, Ch. 574, Sec. 4. (AB 1159) Effective October 5, 2013.)

22442.4. (a) A person engaged in the business or acting in the capacity of an immigration consultant shall submit to the Department of Justice, fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state and federal convictions and arrests and information as to the existence and content of a record of state and federal arrests for which the Department of Justice establishes that the person is free on bail, or on his or her recognizance, pending trial or appeal. An immigration consultant who has been issued a bond as described in Section 22443.1 on or before December 31, 2006, shall submit the fingerprint images and related information to the Department of Justice on or before July 1, 2007.

(b) The Department of Justice shall forward the fingerprint images and related information received pursuant to subdivision (a) to the Federal Bureau of Investigation and request a federal summary of criminal information.

(c) The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the Secretary of State pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(d) The Secretary of State shall request from the Department of Justice subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for each person who submitted information pursuant to subdivision (a).

(e) The Department of Justice shall charge a fee sufficient to cover the cost of processing the requests described in this section.

(f) The Secretary of State shall not post on its Internet Web site information received from the Department of Justice.

(Added by Stats. 2006, Ch. 605, Sec. 4. Effective January 1, 2007.)

22442.5. (a) An immigration consultant who provides immigration reform act services shall establish and deposit into a client trust account any funds received from a client prior to performing those services for that client.

(b) For purposes of this section, the following definitions apply:

(1) "Immigration reform act" means either of the following:

(A) Any pending or future act of Congress that is enacted after October 5, 2013, that authorizes an undocumented immigrant who either entered the United States without inspection or who did not depart after the expiration of a nonimmigrant visa, to attain a lawful status under federal law. The State Bar shall announce and post on its Internet Web site when an immigration reform act has been enacted.

(B) The President's executive actions on immigration announced on November 20, 2014, or any future executive action or order that authorizes an undocumented immigrant who either entered the United States without inspection or who did not depart after the expiration of a nonimmigrant visa to attain a lawful status under federal law. The State Bar shall announce and post on its Internet Web site when an executive action or order has been issued.

(2) "Immigration reform act services" means services described in Section 22441 that are provided in connection with an immigration reform act.

(c) The immigration consultant providing immigration reform act services for the client may withdraw funds received from that client only in compliance with either of the following:

(1) After completing one or more of the itemized services described in paragraph (1) of subdivision (b) of Section 22442, and only in the amount identified as the cost of that service or those services pursuant to paragraph (2) of subdivision (b) of Section 22442.

(2) After completing one or more of the documents listed, and only in the amounts listed, pursuant to paragraph (4) of subdivision (b) of Section 22442.

(Amended by Stats. 2015, Ch. 6, Sec. 3. (AB 60) Effective June 17, 2015.)

22442.6. (a) It is unlawful for an immigration consultant to demand or accept the advance payment of any funds from a person for immigration reform act services in connection with any of the following:

(1) An immigration reform act as defined in subparagraph (A) of paragraph (1) of subdivision (b) of Section 22442.5, before the enactment of that act.

(2) (A) Requests for expanded Deferred Action for Childhood Arrivals (DACA) under an immigration reform act as defined in subparagraph (B) of paragraph (1) of subdivision (b) of Section 22442.5, before the date the United States Citizenship and Immigration Services begins accepting those requests.

(B) Requests for Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) under an immigration reform act as defined in subparagraph (B) of paragraph (1) of subdivision (b) of Section 22442.5, before the date the United States Citizenship and Immigration Services begins accepting those requests.

(C) Requests for Expanded Provisional Waivers of Unlawful Presence under an immigration reform act as defined in subparagraph (B) of paragraph (1) of subdivision (b) of Section 22442.5, before the issuance and effective date of new guidelines and regulations for those provisional waivers.

(D) Any relief offered under any executive action announced or executive order issued, on or after the effective date of the act adding this subparagraph, that authorizes an undocumented immigrant who either entered the United States without inspection or who did not depart after the expiration of a nonimmigrant visa to attain a lawful status under federal law, before the executive action or order has been implemented and the relief is available.

(b) Any advance payment of funds for immigration reform act services that was received after October 5, 2013, but before the enactment or implementation of the immigration reform act for which the services were sought, shall be refunded to the client promptly, but no later than 30 days after the receipt of the funds.

(c) (1) If an immigration consultant providing immigration reform act services accepted funds prior to the effective date of this amendment to this section, and the services provided in connection with payment of those funds were rendered, the consultant shall promptly, but no later than 30 days after the effective date of this amendment to this section, provide the client with a statement of accounting describing the services rendered.

(2) (A) Any funds received before the effective date of this amendment to this section for which immigration reform act services were not rendered prior to the effective date of this amendment to this section shall either be refunded to the client or shall be deposited in a client trust account pursuant to Section 22442.5.

(B) If an immigration consultant deposits funds in a client trust account pursuant to this paragraph, he or she shall comply with all applicable provisions of this chapter, including Section 22442, and shall provide to the client a written notice, in both English and in the client's native language, that there are no benefits or relief available, that no application for such benefits or relief may be processed until enactment or implementation of an immigration reform act and the related necessary federal regulations and forms, and that commencing with the effective date of this amendment to this section, it is unlawful for an immigration consultant to demand or accept the advance payment of any funds from a person for immigration reform act services before the enactment or implementation of an immigration reform act.

(d) (1) In addition to the remedies and penalties prescribed in this chapter, a person who violates this section shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) per day for each violation, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney.

(2) In assessing the amount of the civil penalty, the court may consider relevant circumstances presented by the parties to the case, including, but not limited to, the following:

- (A) The nature and severity of the misconduct.
- (B) The number of violations.
- (C) The length of time over which the misconduct occurred, and the persistence of the misconduct.
- (D) The willfulness of the misconduct.
- (E) The defendant's assets, liabilities, and net worth.

(3) If the Attorney General brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If a district attorney brings the action, the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If a city attorney brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(4) The court shall grant a prevailing plaintiff reasonable attorneys' fees and costs.

(Amended by Stats. 2015, Ch. 6, Sec. 4. (AB 60) Effective June 17, 2015.)

22443. (a) A person engaged in the business or acting in the capacity of an immigration consultant shall deliver to a client a copy of each document or form completed on behalf of the client. Each document and form delivered must include the name and address of the immigration consultant.

(b) (1) A person engaged in the business or acting in the capacity of an immigration consultant shall retain copies of all documents and forms of a client for not less than three years from the date of the last service to the client.

(2) Upon presentation of a written consent signed by a client, an immigration consultant shall provide a copy of the client file to law enforcement without a warrant or a subpoena.

(c) (1) A person engaged in the business or acting in the capacity of an immigration consultant shall return to a client all original documents, including, but not limited to, original birth certificates, rental agreements, utility bills, employment stubs, Department of Motor Vehicle licenses with dates of entry, and passports, that the client has provided to the consultant in support of the client's application.

(2) Any original document that does not need to be submitted to immigration authorities as an original document shall be returned by the immigration consultant immediately after making a copy or reproduction thereof.

(Amended by Stats. 2003, Ch. 384, Sec. 4. Effective January 1, 2004.)

22443.1. (a) (1) Prior to engaging in the business, or acting in the capacity, of an immigration consultant, each person shall file with the Secretary of State a bond of one hundred thousand dollars (\$100,000) executed by a corporate surety admitted to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to one hundred thousand dollars (\$100,000).

(2) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person damaged by any fraud, misstatement, misrepresentation, unlawful act or omission, or failure to provide the services of the immigration consultant or the agents, representatives, or employees of the immigration consultant, while acting within the scope of that employment or agency.

(c) An immigration consultant who is required to file a surety bond with the Secretary of State shall also file a disclosure form with the Secretary of State that contains all of the following information:

(1) The immigration consultant's name, date of birth, residence address, business address, residence telephone number, and business telephone number.

(2) The name and address of the immigration consultant's agent for service of process if one is required to be or has been appointed.

(3) Whether the immigration consultant has ever been convicted of a violation of this chapter or of Section 6126.

(4) Whether the immigration consultant has ever been arrested or convicted of a crime.

(5) If applicable, the name, business address, business telephone number, and agent for service of process of the corporation or partnership employing the immigration consultant.

(d) An immigration consultant shall notify the Secretary of State's office in writing within 30 days when the surety bond required by this section is renewed, and of any change of name, address, telephone number, or agent for service of process.

(e) The Secretary of State shall post information on its Internet Web site demonstrating that an immigration consultant is in compliance with the bond required by this section and has satisfactorily passed the background check required under Section 22441.1, and shall also post a copy of the immigration consultant's photograph. The Secretary of State shall ensure that the information is current and shall update the information at least every 30 days. The Secretary of State shall only post this information and photograph on its Internet Web site if the person has filed and maintained the bond, filed the disclosure form and photograph required to be filed with the Secretary of State, and passed the background check required by Section 22441.1.

(f) The Secretary of State shall develop the disclosure form required to file a bond under this section and make it available to any immigration consultant filing a bond pursuant to this section.

(g) An immigration consultant shall submit all of the following with the disclosure form:

(1) A copy of valid and current photo identification to determine the immigration consultant's identity, such as a California driver's license or identification card, passport, or other identification acceptable to the Secretary of State.

(2) A photograph of himself or herself with the dimensions and in the style that would be acceptable to the United States Department of State for obtaining a United States passport, as instructed by the Secretary of State.

(h) The Secretary of State shall charge and collect a filing fee to cover the cost of filing the bond.

(i) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds.

(j) This section does not apply to employees of nonprofit, tax-exempt corporations who help clients complete application forms in an immigration matter free of charge or for a nominal fee, including reasonable costs, consistent with that authorized by the Board of Immigration Appeals under Section 292.2 of Title 8 of the Code of Federal Regulations.

(k) This section shall become operative on July 1, 2014.

(Repealed (in Sec. 7) and added by Stats. 2013, Ch. 574, Sec. 8. (AB 1159) Effective October 5, 2013. Section operative July 1, 2014, by its own provisions.)

22443.2. (a) The Secretary of State shall issue a cease and desist order to a person subject to this chapter's provisions who has failed to comply with the provisions governing the filing and maintenance of bonds or who does not satisfactorily pass a background check required by Section 22441.1, and shall give notice of the person's noncompliance or failure to satisfactorily pass the background check to the Attorney General. Prior to issuing a cease and desist order to a person pursuant to this subdivision, the Secretary of State shall provide the person with notice and an opportunity to demonstrate that grounds do not exist for disqualification.

(b) For orders issued for failure to comply with the provisions governing the filing and maintenance of bonds, the order shall include a statement that notice of the person's noncompliance shall be sent to the Attorney General.

(Added by Stats. 2006, Ch. 605, Sec. 6. Effective January 1, 2007.)

22443.3. It is unlawful for any person to disseminate by any means any statement indicating directly or by implication that the person engages in the business or acts in the capacity of an immigration consultant, or proposes to engage in the business or act in the capacity of an immigration consultant, unless the person has on file with the Secretary of State a disclosure statement and a bond, in the amount of, and subject to the terms described in, Section 22443.1, that is maintained throughout the period covered by the statement, such as, but not limited to, the period of a Yellow Pages listing.

(Amended by Stats. 2006, Ch. 605, Sec. 7. Effective January 1, 2007.)

22444. It is unlawful for any person engaged in the business or acting in the capacity of an immigration consultant to do any of the following acts:

(a) Make false or misleading statements to a client while providing services to that client.

(b) Make any guarantee or promise to a client, unless the guarantee or promise is in writing and the immigration consultant has some basis in fact for making the guarantee or promise.

(c) Make any statement that the immigration consultant can or will obtain special favors from or has special influence with the United States Citizenship and Immigration Services, or any other governmental agency, employee, or official, that may have a bearing on a client's immigration matter.

(d) Charge a client a fee for referral of the client to another for services which the immigration consultant cannot or will not provide to the client. A sign setting forth this prohibition shall be conspicuously displayed in the immigration consultant's office.

(Amended by Stats. 2004, Ch. 557, Sec. 7. Effective January 1, 2005.)

22445. (a) (1) A person who violates this chapter shall be subject to a civil penalty not to exceed one hundred thousand dollars (\$100,000) for each violation, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney. An action brought in the name of the people of the State of California shall not preclude an action being brought by an injured person.

(2) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court may consider relevant circumstances presented by the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(3) Any action brought pursuant to this section by the Attorney General, a district attorney, or a city attorney shall also seek relief under subdivision (c) of Section 22446.5.

(4) If the Attorney General brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If a district attorney brings the action, the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If a city attorney brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(b) In addition to the provisions of subdivision (a), a violation of this chapter is a misdemeanor punishable by a fine of not less than two thousand dollars (\$2,000) or more than ten thousand dollars (\$10,000), as to each client with respect to whom a violation occurs, or imprisonment in the county jail for not more than one year, or by both fine and imprisonment. However, payment of restitution to a client shall take precedence over payment of a fine.

(c) A second or subsequent violation of Sections 22442.2, 22442.3, and 22442.4 is a misdemeanor subject to the penalties specified in subdivisions (a) and (b). A second or subsequent violation of any other provision of this chapter is a felony punishable by imprisonment in state prison.

(d) An action brought pursuant to this section shall be commenced within four years after discovery of the commission of the offense.

(Amended by Stats. 2006, Ch. 605, Sec. 8. Effective January 1, 2007.)

22446.5. (a) A person claiming to be aggrieved by a violation of this chapter by an immigration consultant may bring a civil action for injunctive relief or damages, or both. If the court finds that the defendant has violated a provision of this chapter, it shall award actual damages, plus an amount equal to treble the amount of actual damages or one thousand dollars (\$1,000) per violation, whichever is greater. The court shall also grant a prevailing plaintiff reasonable attorneys' fees and costs.

(b) Any other party who, upon information and belief, claims a violation of this chapter has been committed by an immigration consultant may bring a civil action for injunctive relief on behalf of the general public and, upon prevailing, shall recover reasonable attorneys' fees and costs.

(c) The Attorney General, a district attorney, or a city attorney who claims a violation of this chapter has been committed by an immigration consultant, may bring a civil action for injunctive relief, restitution, and other equitable relief against the immigration consultant in the name of the people of the State of California.

(d) An action brought under this chapter shall be set for trial at the earliest possible date, and shall take precedence over all other cases, except older matters of the same character and matters to which special preference may be given by law.

(Amended by Stats. 2002, Ch. 705, Sec. 2. Effective January 1, 2003.)

22447. (a) A person who is awarded damages in an action or proceeding for injuries caused by the acts of a person engaged in the business of, or acting in the capacity of, an immigration consultant, in the performance of his or her duties as an immigration consultant, may recover damages from the bond required by Section 22443.1. In an action brought by the Attorney General, a district attorney, or a city attorney, the court may order relief for benefit of the injured parties to be paid from the bond.

(b) When any claim or claims against a bond have been paid so as to reduce the principal amount of the bond remaining available to pay claims below the principal amount required by Section 22443.1, the immigration consultant shall cease to conduct any business unless and until the bond has been reinstated up to the minimum amount required by Section 22443.1.

(Amended by Stats. 2002, Ch. 705, Sec. 3. Effective January 1, 2003.)

22448. Any civil action to enforce any cause of action pursuant to this chapter shall be commenced within four years after the cause of action has accrued. The cause of action is not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the violation.

(Added by Stats. 1998, Ch. 879, Sec. 27. Effective January 1, 1999.)

22449. (a) Immigration consultants, attorneys, notaries public, and organizations accredited by the United States Board of Immigration Appeals shall be the only individuals authorized to charge clients or prospective clients fees for providing consultations, legal advice, or notary public services, respectively, associated with filing an application under the federal Deferred Action for Childhood Arrivals program announced by the United States Secretary of Homeland Security on June 15, 2012.

(b) (1) Immigration consultants, attorneys, notaries public, and organizations accredited by the United States Board of Immigration Appeals shall be prohibited from participating in practices that amount to price gouging when a client or prospective client solicits services associated with filing an application for deferred action for childhood arrivals as described in subdivision (a).

(2) For the purposes of this section, "price gouging" means any practice that has the effect of pressuring the client or prospective client to purchase services immediately because purchasing them at a later time will result in the client or prospective client paying a higher price for the same services.

(c) (1) In addition to the civil and criminal penalties described in Section 22445, a violation of this section by an attorney shall be cause for discipline by the State Bar pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) In addition to the civil and criminal penalties described in Section 22445, a violation of this section by a notary public shall be cause for the revocation or suspension of his or her commission as a notary public by the Secretary of State and the application of any other applicable penalties pursuant to Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of the Government Code.

(Added by Stats. 2013, Ch. 571, Sec. 1. (AB 35) Effective January 1, 2014.)