

Report to the 78th Legislative Assembly

Pursuant to HB 3525

Task Force on Immigration Consultant Fraud

I. Introduction: Creation of the Task Force

The Task Force was established by the 77th Legislative Assembly through HB 3525, sponsored by Representatives Jessica Vega Pederson and Joe Gallegos, to address growing concerns about notario fraud perpetrated against vulnerable Oregonians.

HB 3525 charged the Task Force to “study the issue of violations of ORS 9.280 by immigration consultants and the practice of immigration consultants attempting to obstruct persons from reporting violations of ORS 9.280.”

A. Background: Notario Fraud in Oregon

In fall 2014, Secretary of State Kate Brown, state and federal prosecutors, regulators, law enforcement, USCIS officers, representatives of the Mexican Consulate, lawyers, and community advocates gathered at a conference hosted by the Oregon State Bar to discuss how to solve the seemingly intractable problem of notario fraud. *See* Appendix, Notario Fraud Conference. The panelists and participants reported on the scope of the problem and agreed that the enforcement tools available to law enforcement to combat notario fraud were insufficient. The consensus of the conference was a new and stronger approach was needed.

Soon after the conference, Dick Ginsburg¹, a long-time community advocate and immigration lawyer, called together an informal work group to discuss a possible legislative solution. The informal work group, led by Ms. Judy Parker, a practicing attorney and a member of the Oregon Commission on Hispanic Affairs, focused on developing legislation to strengthen prosecution of notario fraud. The work group included participants from the Oregon Advocacy Commissions, Oregon Department of Justice, the Multnomah County Sheriff’s Office, the Oregon State Bar, a prosecutor, a criminal defense attorney, and the Oregon Chapter of the American Immigration Lawyers Association.

The work group originally proposed to amend ORS 162.235 (Obstructing governmental or judicial administration) to include language that would make it a crime to intentionally act to obstruct, impair or hinder another person from reporting notario fraud to a law enforcement agency or judge by instilling in the other person a fear that, if a report was made, the actor or a third person would harm the victim.

¹ Dick Ginsburg passed away during the 77th Legislative Session. The Task Force submits this Legislative Report in his honor. The members of the Task Force are grateful for his dedication to improving the lives of the most vulnerable Oregonians and his steadfast leadership on combating notario fraud.

HB 3525, as originally introduced by Representatives Vega Pederson and Gallegos, sought to amend ORS 162.235 in the manner recommended by the informal work group. After it was drafted, the Department of Justice expressed concerns about whether it was possible to find a better approach. HB 3525 was amended to establish this Task Force, which was tasked with studying existing enforcement provisions and proposing how to give law enforcement the most effective tools to combat notario fraud in Oregon.

B. HB 3525 Task Force Membership

Pursuant to HB 3525, the Task Force members include:

1. Governor's appointment of representative of the Oregon State Bar:
Amber Hollister: Deputy General Counsel at the Oregon State Bar, which regulates Oregon attorneys; staff to the Oregon State Bar's Unlawful Practice of Law Committee.
2. Governor's appointment of an immigration attorney:
John Marandas: Immigration attorney at Marandas & McClellan in Lake Oswego; past chair of the Oregon Chapter of the American Immigration Lawyers Association; past member of the Unlawful Practice of Law/Consumer Protection national AILA committee.
3. Governor's appointment of a representative of the Oregon Advocacy Commissions Office:
Judy Parker: Two-term member of the Oregon Commission on Hispanic Affairs; Oregon and Washington lawyer specializing in regulatory and administrative law.
4. Governor's appointment of a representative of the Department of Justice
Aaron Knott: DOJ Legislative Director; former Multnomah County Deputy District Attorney.
5. Governor's appointment of a representative of an organization of Oregon criminal defense attorneys:
Stephanie Engelsman, criminal defense attorney at Metropolitan Public Defender.
6. Governor's appointment of a member representing Oregon prosecutors:
John Haroldson: Benton County District Attorney; Vice Chair of the Oregon Commission on Hispanic Affairs.
7. Governor's appointment of a representative of an organization that advocates for low-wage workers:
Bonnie Allen-Sailer: Staff attorney with the Northwest Workers' Justice Project.
8. Governor's appointment of a member representing law enforcement:
Keith Bickford: Multnomah County Detective; manager of the Multnomah County Human Trafficking Task Force.
9. Governor's appointment of a representative advocating for immigrants and refugees:

Chanpone Sinlapasai: Chair of Oregon Department of Justice Immigrant Crime Victims' Rights Sub-committee; Board Member of FBI Citizens' Academy Community Outreach; President of the Board for Immigrant Refugee Community Organization; Commissioner of Oregon Commission on Asian Pacific Islander Affairs; Asian Family Center Board Member; partner at Marandas McClellan.

10. President of the Senate's appointee:
Senator Sara Gelser, Senate District 8, which includes Albany, Corvallis, Philomath, Millersburg, Tangent and unincorporated areas of Linn and Benton Counties.
11. Speaker of the House's appointee:
Representative Jessica Vega Pederson, House District 47, East Portland.
12. Secretary of State's appointee:
Peter Threlkel, Director of the Secretary of State's Corporation Division, which regulates Oregon notaries.

II. The Problem of Notario Fraud

Under Oregon law, only lawyers and federally authorized accredited representatives can provide advice on immigration matters. ORS 9.280.²

Oregon notaries are not authorized to provide immigration advice. Notaries are regulated by the Secretary of State's Corporation Division and are only authorized to witness the signing of documents and administer oaths. ORS 194.215(8). Because of the confusion that could arise between a "notary"³ and one who has greater powers in different countries⁴ under the title

² **9.280 Prohibition on acting as immigration consultant; definitions; exception.** (1) It shall be a violation of ORS 9.160 for any person to engage in the business or act in the capacity of an immigration consultant in this state, for compensation, unless the person is an active member of the Oregon State Bar.

(2) As used in this section, unless the context or subject matter requires otherwise:

(a) "Immigration consultant" means any person who gives advice on an immigration matter, including but not limited to drafting an application, brief, document, petition or other paper or completing a form provided by a federal or state agency 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 Department of Homeland Security, the United States Department of Justice, the United States Department of State or the United States Department of Labor.

(3) This section 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.

³ For the purpose of this report, we refer to legitimate individuals who are licensed to act as a notary public by the Secretary of State as "notaries"; those that disregard Oregon law and advertise themselves as "notarios" and "notario publicos" we refer to as "notarios" or immigration consultants. Notarios have neither a law degree nor federal accreditation, but nonetheless peddle their unauthorized and often faulty advice on immigration, legal and tax matters.

⁴ Some countries in the Western Hemisphere regard notaries as a subset of legal professionals; they are highly trained, licensed practitioners providing a full range of regulated legal services, and while they hold a public office, they nonetheless operate in private practice and are paid on a fee-for-service basis. They often receive the same

“notario,” the Oregon legislature has flatly prohibited the use of the terms “notario” and “notario publico” by anyone other than licensed attorneys. *See* ORS 194.350 (prohibiting a notary public who is not licensed to practice law from advertising as a “notario” or “notario publico”).

Despite the existing prohibitions on acting as a notario, law enforcement, regulatory authorities, and community members report that notarios are active across the state. Notarios falsely claim they can accomplish the work of an immigration or tax lawyer and prey on people who are uneducated and unfamiliar with the United States legal system.

Notarios typically charge their victims thousands of dollars for immigration assistance they do not have the license, expertise or training to provide. They may use their status as a notary as subterfuge, pretending that the Oregon Secretary of State has granted them the privilege to practice certain forms of law by issuing a commission.

Perhaps most troubling, law enforcement and community advocates regularly receive reports about notarios who re-victimize their victims. After defrauding victims by charging them thousands of dollars for immigration services they cannot provide, notarios take advantage of their victim’s vulnerable situation by threatening them with harm if they seek help from law enforcement. Task Force members have received reports of notarios who demand additional money to provide immigration forms, threaten to report clients or their family members to authorities, or hold important identity documents ransom. *See Appendix, News Reports, Press Releases, Secondary Sources, and Other Sources.*

A. Abuse of Oregon Notary Commissions

The Secretary of State’s Office has received complaints of notarios who use their Oregon notary commissions to further their fraud.⁵ *See Appendix.*

The Secretary of State has attempted to strengthen the prohibitions on advertising as a “notario” or “notario publico” through ORS 194.350, as discussed above. But these tools have been insufficient. Presently, even if an individual is found to have misused a commission to engage in unlawful practice as a notario, the Secretary of State does not have the power to permanently prevent them from obtaining notary commissions. Instead, even a notario can reapply for a commission after ten years.

B. Victims of Notario Fraud

Notarios are indiscriminate in their choice of victim but mainly target those with money but little legal sophistication. They take advantage of United States citizens and U.S. legal permanent residents who seek immigration help for family members, as well as people who want to apply for immigration relief. They often prey on individuals living below the poverty line, who can ill

education as attorneys at civil law but without qualifications in advocacy, procedural law, or the law of evidence, somewhat comparable to solicitor training in certain common-law countries.

⁵ *See* Oregon Secretary of State Website at <http://sos.oregon.gov/business/Pages/notary-public-notario-publico.aspx>.

afford to pay for bad advice. Notarios operate in every immigrant community and work to undermine the trust that victims have in law enforcement.

Notarios target individuals who want access to the United States' justice system. But notarios only hinder access to that system. Instead of obtaining genuine legal assistance, notarios regularly file the wrong forms, insert the wrong information, apply for the wrong relief, fail to file supporting documentation, and miss deadlines. Victims experience harm regardless of whether United States' laws provide they are eligible for status.

Notarios also improperly and unlawfully provide tax advice. Victims rely on their "help" but end up owing crushing penalties and fees to tax authorities.

The Oregon Department of Justice, Multnomah County, Oregon State Bar and the Federal Trade Commission's Consumer Protection Division have made a concerted effort to warn Oregonians about the dangers of notario fraud, but law enforcement has had limited success bringing cases against notarios. In 2014 and 2015, the Oregon State Bar distributed 10,000 brochures through community partners warning Oregonians about the dangers of notario fraud. *See* Appendix, News Releases and Other Resources.

C. Law Enforcements' Hands are Tied

Notarios rely on their victims being too afraid to come forward and seek help. Family members lose trust in the legal process once they see a notario they thought was qualified scam them out of money and provide faulty advice. Notarios commonly isolate victims by threatening to keep important documents, threatening to report individuals to authorities, or requiring additional payments before completing work. When an application fails, a notario will blame the victim for the failed application when the notario's own errors or faulty advice caused the problem.

Although ORS 9.280 requires that those who provide immigration advice be lawyers or federally accredited representatives, that requirement cannot solve the problem in a vacuum. Federal, state, and county prosecutors who presented at the fall 2014 Notario Fraud Conference expressed frustration with the current remedies available to law enforcement.

Task Force member Detective Bickford is the human trafficking investigator at the Multnomah Sheriff's Office. He testified in support of HB 3525 that law enforcement wants to combat the notario fraud problem but Oregon's current law is inadequate to the task. He said, "The better we define the changes [to Oregon law], the more chance we have that law enforcement will make the effort and open a case."

III. Meeting Summaries

The Task Force met three times – on August 18, September 2, and September 17, 2015.

During its meetings, the Task Force analyzed the existing provisions of ORS 9.280, ORS 9.990, ORS 162.235, ORS 162.365, and ORS chapter 194. Consistent with its charge, the Task Force explored amending criminal and civil regulatory statutes. The Task Force discussed providing

law enforcement with improved tools to fight notario fraud, and expanding the Secretary of State's regulatory authority over notaries who engage in the unlawful practice of law. The Task Force also discussed amending ORS 164.075, Oregon's Theft by Extortion statute, ORS 162.235, Oregon's Obstruction of Justice statute and ORS 162.365, Oregon's Criminal Impersonation statute.

The Task Force also analyzed notario fraud legislation in other states. Analysis of the laws of other states, including California, Michigan, Montana, Nebraska, Nevada, New Jersey, New York, South Carolina, Virginia, Washington and West Virginia reveals that states recognize the devastating impact of notario fraud on vulnerable communities and are actively seeking additional tools to combat fraud. *See* Appendix, Recently Enacted Notario Fraud Legislation.

A. Options Discussed

The Task Force analyzed ORS 9.280, and concluded it adequately described who is authorized to provide immigration advice. The task force analyzed ORS 9.990 and agreed that it was inadequate to address the problem of notarios re-victimizing their vulnerable Oregonians.

Task Force members Commissioner Judy Parker and Benton County District Attorney Haroldson submitted a proposal to use obstructing governmental administration as a means of prosecution of Notario fraud with the goal of creating a tool that focuses on law enforcement rather than consumer protections, as consumer protections are being supported by other proposals. The proposed amendment would make it a crime for a person to impersonate a notary without being qualified by the Secretary of State or impersonate an immigration consultant in violation of ORS 9.280.

The Task Force next examined Oregon's Theft by Extortion statute. The Task Force members discussed the possibility of amending the statute to respond to concerns that notarios were re-victimizing individuals they defraud. DOJ Legislative Director Knott proposed changes to this statute. Task Force members expressed the opinion that this approach would have the added benefit of providing additional protections to vulnerable Oregonians who are victims of human trafficking or labor trafficking.

The Task Force is cognizant that the free speech protections codified in Article I, Section 8 of Oregon's Constitution require careful consideration when addressing the issue of notario fraud and related extortion. The Oregon Supreme Court has held that a law which does not give a defendant the opportunity to reasonably anticipate a scope of harm under certain criminal laws and thereby comport conduct to the law is void for vagueness. *State v. Robertson*, 649 P.2d 569 (1982). In examining Oregon's existing Theft by Extortion statute, the Task Force realized at least some portions of the Theft by Extortion statute, as currently drafted, may implicate the free speech protections outlined in *Robertson*. Mr. Knott proposed amendments to the Theft by Extortion that address any concerns raised by *Robertson*.

The Task Force considered the possibility of amending ORS 162.365 (Criminal Impersonation), to provide that a person who impersonates an attorney, legal advisor or notary would commit criminal impersonation. Task Force member District Attorney Haroldson noted, "It is an ironic

and cruel twist that the vulnerability that serves the charlatan-notario in committing Theft by Deception, also serves to prevent victims from reporting these crimes.” While members agreed this was an inventive take on the issue, some members of the Task Force expressed concern that this approach relied upon the undefined term “legal advisor,” could have unintended consequences for licensed attorneys and did not provide consumers adequate protection.

During the discussion of possible amendments to Oregon’s criminal code, Task Force members discussed the possibility that amendments could potentially bring Oregon law in accordance with federal definitions of crimes outlined in the Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000 and as a result provide crime victims who assist law enforcement with additional forms of relief under limited circumstances. The Task Force determined that its focus was to ameliorate harm to vulnerable Oregonians under state law and that any ancillary federal impacts were impossible to forecast.

Finally, the Task Force analyzed ORS Chapter 194 to determine if the provisions could be strengthened to give the Secretary of State the ability to permanently disqualify notaries and withhold commissions from individuals who had been found to have engaged in the unlawful practice of law pursuant to ORS 9.160. Members agreed that it would be an improvement for the Secretary of State to have the authority to permanently disqualify persons who engage in notario fraud or impersonate a notary from obtaining notary commissions.

B. Consumer Fraud Prevention Education

The Task Force discussed and acknowledged that any effort to combat notario fraud must include efforts at educating the public and law enforcement about notario fraud. The Oregon Department of Justice, Secretary of State’s Office, Oregon State Bar and American Immigration Lawyers Association have all made sustained efforts to share information with vulnerable Oregonians who are likely to be targeted by notarios. *See Appendix.* The Task Force agrees these efforts must continue.

IV. Task Force Recommendations

The members of the Task Force proposed various solutions at the August 18th meeting, then developed them and presented them at the September 2nd meeting. The group generally agreed on three proposals and we urge the 78th Legislative Assembly to consider them as an omnibus bill.

A. Amend ORS 164.075

Mr. Aaron Knott, Legislative Director at the Oregon Department of Justice, proposed amending Oregon’s theft by extortion statute, ORS 164.075.

The proposed modification to ORS 164.075 makes a number of changes, including renaming the crime from “Theft by Extortion” to “Extortion” and making clear that preventing another person from reporting unlawful conduct is criminalized under this section. A defendant would also be prohibited from using the threat of reporting a person’s immigration status as a way to extort

property or services from that person, or from preventing them from reporting unlawful conduct. This expands the Oregon definition of extortive conduct to all instances of a crime victim being prevented from the reporting of a crime by the threat of injury, property damage, or other harm.

The Task Force members discussed the other amendments Mr. Knott proposed and decided in section (1) that the word “immunity” should not be used, and that “services” and “unlawful” should be used. Mr. Knott proposed adding the word “Falsely” before “Accuse” in sub (d). The members also agreed that new sub (e) should include “or another person’s” and this line adds protection that did not exist previously.

The Task Force discussed that this amendment would have the additional benefit of providing a remedy where vulnerable Oregonians are victims of human trafficking or labor trafficking, but are threatened with harm in order to silence any reports to law enforcement.

Other amendments were identified as needing additional analysis. Representative Vega Pederson will work with Legislative Counsel on drafting the exact wording of the bill, which will be finalized by the submission deadline.

Theft by Extortion is presently a Class B felony under Oregon law. As with any new legislation the possibility of a fiscal impact will be analyzed by the Legislative Fiscal Office. Presently, there is significant inefficiency when law enforcement investigates a case but is not able to charge a notario who has engaged in fraudulent or extortive conduct with a crime.

B. Amend ORS 194.315 and ORS 194.340

Representing the Secretary of State, Mr. Peter Threlkel, Director of the Corporation Division, proposed amending sections of ORS Chapter 194 related to regulating notaries. Based on this proposal, the Task Force recommends amending ORS 194.315(2), which provides grounds for disqualification as a notary, to include convictions of and judicial findings that a person has impersonated a notary or violated ORS 9.160. For example, if an applicant were found guilty of impersonating a notary, the Secretary of State could permanently disqualify that person from becoming a notary.

Second, the task force recommends amending the grounds for revoking a notary commission. We propose that the 78th Legislative Assembly amend ORS 194.340 to include a judicial finding or admission of liability for impersonating a notary or violating ORS 9.160 as grounds to revoke a notary commission.

The proposed changes would bar a notario for life from being a notary again.

Third, the Task Force recommends that the Secretary of State have the authority to permanently disqualify a person from receiving a notary commission and revoke a notary’s commission if the person has admitted to or been found to have engaged in the unlawful trade practice of acting as an unauthorized immigration consultant, as provided in ORS 646.608(1)(vvv). If a person admits to or is found to have violated ORS 656.608(1)(vvv), he or she will be permanently disqualified from serving as an Oregon notary.

Mr. Threlkel noted that the SOS, the Oregon State Bar and the Department of Justice might pursue an action against a notario. Including ORS 9.160 and ORS 646.608(1)(vvv) as grounds for disqualification and revocation will conserve governmental resources by allowing, agencies the opportunity to work collaboratively on enforcement issues. In addition, it will increase consumer protection by reducing harm caused by a notario who would otherwise rely on a notary commission to defraud Oregonians.

C. Amend ORS 162.235

The Task Force also recommends exploring amendments to the crime of obstructing governmental or judicial administration, ORS 162.235. The Task Force members discussed amending ORS 162.235 to provide that an individual who intends to defraud another person by claiming they have authority to act as a notary when not being qualified by the Oregon Secretary of State or authority to act in the capacity of an immigration consultant in violation of ORS 9.280, would commit the crime of obstructing governmental or judicial administration. Legislative Counsel will work with Representative Vega Pederson to refine the language of these amendments.

D. Continue Consumer Protection Education

Any effort to combat notario fraud must include a dedicated effort to educate vulnerable Oregonians about the dangers of notario fraud. Entities such as the Oregon Department of Justice, the Secretary of State's Office, the Oregon State Bar, and community advocates have a crucial role in sharing information about how to prevent notario fraud. Detective Keith Bickford stated that part of this effort must be to educate law enforcement about the criminal aspects of notario fraud.

V. Timeline / Next Steps

The Task Force's report will be presented to the Senate and House Committee on Judiciary on September 30, 2015 by Task Force Co-Chairs Senator Gelser and Representative Vega Pederson. Task force Co-Chair Representative Jessica Vega Pederson will submit proposed legislation on behalf of the Task Force on increased protections for Oregonians victimized by notarios for the 78th Legislative Assembly.

VI. Proposed Amendments

A. ORS 164.075 Extortion

164.075 Theft by eExtortion. (1) A person commits ~~theft by~~ extortion when the person compels or induces another to deliver **any property or services** to the person or to a third person, **or by preventing another person from reporting unlawful conduct**, by instilling in the other a fear that, if these ~~are property~~ not so delivered, the actor or a third person will in the future:

- (a) **Unlawfully** ~~E~~cause physical injury to some person;
- (b) **Unlawfully** ~~E~~cause damage to property;

- (c) Engage in other conduct constituting a crime;
- (d) **Falsely** Accuse some person of a crime or cause criminal charges to be instituted against the person;
- ~~(e) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule;~~
- (e) Report his, her, or another person's immigration status or suspected immigration status;**
- (f) Cause or continue a strike, boycott or other collective action injurious to some person's business, except that such conduct is not considered extortion when the property is demanded or received for the benefit of the group in whose interest the actor purports to act;
- (g) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense;
- (h) Use or abuse the position as a public servant by performing some act within or related to official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or
- ~~(i) Inflict any other harm that would not benefit the actor.~~
- (2) ~~Theft by e~~Extortion is a Class B felony. [1971 c.743 §127; 1987 c.158 §27; 2007 c.71 §48]

B. ORS 194.315 Qualifications of a notary

Amend ORS 194.315 (2) to provide that a person is disqualified from receiving a commission if the person has been convicted of impersonating a notary or if the person has been found to have violated ORS 9.160.

194.315 Commission as notary public; qualifications; no immunity or benefit. (1) An individual qualified under subsection (2) of this section may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the information required under rules adopted by the secretary and pay the application fee described in ORS 194.365.

- (2) An applicant for a commission as a notary public must:
 - (a) Be at least 18 years of age;
 - (b) Be a resident of this state or have a place of employment or practice in this state;
 - (c) Be able to read and write English;
 - (d) Not have been convicted of a felony or any crime involving fraud, dishonesty or deceit during the 10-year period preceding the date of application;
 - (e) Not have been found to have engaged in the act of impersonating a notary as described in ORS 194.990 (1)(b) or ORS 162.325(2) as amended;**
 - (f) Not have been found to have engaged in the unlawful practice of law as described in ORS 9.160.**
 - (g) Not have been found to have violated ORS 646.608(1)(v) or have entered into an assurance of voluntary compliance with Oregon Department of Justice, acting pursuant to ORS 646.632, alleging violations of ORS 9.160.**
 - ~~(eh)~~ Not have had a commission as a notary public revoked during the 10-year period preceding the date of application;
 - ~~(fi)~~ Not be disqualified under ORS 194.340 to receive a commission;

(gj) Complete the course of study described in ORS 194.325; and

(hk) Have passed the examination required under ORS 194.325.

(3) Before the Secretary of State may issue a commission as a notary public, the applicant shall execute an oath of office and submit it to the secretary.

(4) Upon the applicant's compliance with this section, the Secretary of State shall issue a commission as a notary public to the applicant for a term of four years.

(5) A commission as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees of this state.

(6) Each notary public may file with the Secretary of State a statement waiving the fees specified under ORS 194.400. If a notary public files the statement waiving the fees, the office of that notary public is not considered a lucrative office.

(7) The functions of a notary public are not considered official duties under Article III, section 1, of the Oregon Constitution.

(8) A commission as a notary public is not considered a commission under Article V, section 18, of the Oregon Constitution. [2013 c.219 §20]

C. ORS 194.340 Grounds to deny or revoke a notary commission

Amend ORS 194.340 to include a conviction, judicial finding, or admission of liability for impersonating a notary or violating ORS 9.160 as grounds to revoke a notary commission.

194.340 Grounds to deny, revoke, suspend or condition commission of notary public.

(1) The Secretary of State may deny, revoke, suspend or impose a condition on a commission as a notary public for:

(a) Failure of the applicant or notary public to comply with any provision of this chapter, any rule adopted by the Secretary of State under this chapter or any other state or federal law relating to any duty required of a notary public;

(b) A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the secretary;

(c) A conviction of the applicant or notary public for any felony or for a crime involving fraud, dishonesty or deceit;

(d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit;

(e) Use of false or misleading advertising or representation by the notary public representing that the notary public has powers, qualifications, rights or privileges that the notary public does not have, including the power to counsel on immigration matters;

(f) Denial, revocation, suspension or conditioning of a commission as a notary public in another state; ~~or~~

(g) Not have found to have violated ORS 646.608(1)(vvv); or

(gh) Execution of any certificate as a notary public containing a statement known to the notary public to be false.

(2) Upon receipt of a notice of a finding or admission of liability by the notary public that the notary public has violated ORS 9.160, ORS 162.235(2) as amended, 194.990(1)(b),

or ORS 646.608(1)(vvv), the Secretary of State may revoke the commission of the notary public.

(3) Upon receipt of a notice that a notary public has entered into an assurance of voluntary compliance with Oregon Department of Justice, acting pursuant to ORS 646.632, alleging violations of ORS 9.160.

(24) If the Secretary of State denies, revokes, suspends or imposes a condition on a commission as a notary public, opportunity for hearing shall be accorded as provided in ORS chapter 183 for a contested case.

(35) The authority of the Secretary of State to deny, revoke, suspend or impose a condition on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law. [2013 c.219 §22]

D. ORS 162.235 - Obstructing governmental or judicial administration

(1) A person commits the crime of obstructing governmental or judicial administration if the person intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle; or

(2) A person commits the crime of obstructing governmental or judicial administration if that person with intent to defraud engages in the business or acts in the capacity of a commissioned notary pursuant to ORS 194.205 et seq. without first being qualified to do by the Oregon Secretary of State; or

(3) A person commits the crime of obstructing governmental or judicial administration if that person with intent to defraud engages in the business or acts in the capacity of an immigration consultant in violation of ORS 9.280.

(4) This section shall not apply to the obstruction of unlawful governmental or judicial action or interference with the making of an arrest.

(5) Obstructing governmental or judicial administration is a Class A misdemeanor.

APPENDIX

NEWS REPORTS

George Rede, “Oregon immigrants warned of ‘notario fraud’ in applying for Obama’s protection.” Oregonian. Published on December 18, 2014.
http://www.oregonlive.com/business/index.ssf/2014/12/oregon_immigrants_reminded_to.html

Nigel Jaquiss, “Between ICE and a Hard Place: Salvador Ibarra provided evidence against immigration crooks. His reward? Likely deportation.” Willamette Week. Published on December 24, 2013. http://www.wweek.com/portland/article-21689-between_ice_and_a_hard_place.html

Andrea Damewood, “Greed Card: Two Oregonians found the perfect crime: falsely promising vulnerable immigrants documents. Why are they not in prison?” Willamette Week. Published on November 27, 2013. http://www.wweek.com/portland/article-21575-greed_card.html

Suzanne Stevens, “Oregon targets unlicensed tax ‘notarios.’” Portland Business Journal. Published on March 20, 2013.
http://www.bizjournals.com/portland/morning_call/2013/03/oregonian-targets-unlicensed-tax-prepar.html

Andrea Castillo, “Talk of immigration reform sparks Oregon increase in fraudulent tax preparers and lawyers, experts say.” Oregonian. Published on March 28, 2013.
http://www.oregonlive.com/hillsboro/index.ssf/2013/03/talk_of_immigration_reform_spa.html

Beth Slovic, “With Amigos Like These: Shady businesses cash in on desperate immigrants locked in legal limbo.” Published on August 30, 2006. http://www.wweek.com/portland/article-6008-with_amigos_like_these.html

National News Reports on Notario Fraud:

http://www.americanbar.org/groups/public_services/immigration/projects_initiatives/fightnotario_fraud/notario_fraud_in_the_news.html

PRESS RELEASES

Multnomah County, Do you know a victim of ‘notario’ fraud? January 8, 2015.
<https://multco.us/communications/news/do-you-know-victim-%E2%80%98notario%E2%80%99-fraud>

Oregon Department of Justice, Community Town Hall, Understand *Notario* fraud and other consumer scams. September 30, 2014.
http://www.doj.state.or.us/events/pdf/community_town_hall_09-30-14.pdf

Oregon Department of Justice, State Cracks Down on “Notarios.” March 19, 2013.
<http://www.doj.state.or.us/releases/Pages/2013/rel031913.aspx>

Oregon Department of Justice, Attorney General Kroger Warns of Tax Preparer Scams. April 2, 2012. <http://www.doj.state.or.us/releases/Pages/2012/rel040212.aspx>

United States Department of Justice, Federal Trade Commission, United States Department of Homeland Security, Joint News Release, National Initiative to Combat Immigration Services Scams. June 9, 2011.
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<http://www.consumer.ftc.gov/articles/0141-scams-against-immigrants>

American Bar Association, Fight Notario Fraud,
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Notario Fraud Conference

*Cosponsored by the
American Immigration
Lawyers Association Oregon
Chapter and in cooperation
with the Oregon State Bar
Consumer Law Section*



**Wednesday, September 24, 2014
1 p.m.–4:45 p.m.**

**Oregon State Bar Center
Tigard, Oregon**

**3.75 General CLE or
Access to Justice credits**

SCHEDULE

12:30 Registration

1:00 Notaries and Notarios—The View from the Oregon Secretary of State’s Office
The Honorable Kate Brown, *Oregon Secretary of State, Salem*

1:15 Scammed and Scared: A Snapshot of Notario Fraud in Oregon

- ◆ Scope of the problem
- ◆ How and where the notarios operate
- ◆ “Legal advice” provided by notarios
- ◆ The victims and the harm inflicted

Richard Ginsburg, *Law Office of Richard M. Ginsburg, Hillsboro*

Tilman Hasche, *Parker Butte & Lane PC, Portland*

Brenda Mendoza, *PCUN, Pineros y Campesinos Unidos del Noroeste, Woodburn*

2:15 Fighting Fraud: The Law Enforcement and Regulatory Response to Notarios

- ◆ Current law regarding immigration consultants
- ◆ Authority to bring civil and criminal cases against notarios
- ◆ Enforcement efforts
- ◆ Evidence necessary to bring a case

Scott Bradford, *U.S. Attorney’s Office, Eugene*

Kevin Demer, *Property Crimes Division, Multnomah County District Attorney’s Office, Portland*

Errious Johnson, *Civil Rights Division, Oregon Department of Justice, Salem*

3:15 Break

3:30 Private Right of Action: Relief Under the Unfair Trade Practices Act

- ◆ New statutory provisions regarding immigration consultants
- ◆ Practical advice
- ◆ Winning a private UTPA action

Joshua Ross, *Stoll Berne, Portland*

Diane Sykes, *Attorney at Law, Portland*

4:30 Solutions Roundtable

- ◆ Oregon State Bar community outreach campaign
- ◆ How to connect and engage with community partners

Amber Hollister, *Oregon State Bar, Tigard*

Christine Pool, *U.S. Citizenship and Immigration Services, Seattle*

Margaret Rosenast, *U.S. Citizenship and Immigration Services, Portland*

4:45 Adjourn