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# New Community Sponsorships for Humanitarian Immigrants: Guidance on Washington’s Practice of Law and Immigration Services Fraud Prevention Rules

*Megan J. Ballard\* & Zaida C. Rivera\*\**

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## INTRODUCTION

“Should I include my house as an asset?” asked the author’s acquaintance when applying to sponsor a Ukrainian family fleeing war. She was one of many Washingtonians responding to a new federal program seeking community support for Ukrainians forced from their homes. The federal program, Uniting for Ukraine, requires those interested

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in sponsoring Ukrainians to complete an application form promising to financially support the Ukrainian beneficiary and requiring evidence of financial ability to do so.<sup>1</sup> The form was confusing enough that this acquaintance sought help in completing it.

Less than nine months after launching Uniting for Ukraine, the Biden Administration (Administration) created nearly identical community sponsorship programs for nationals of four other countries.<sup>2</sup> These additional new programs have the potential to bring 30,000 humanitarian immigrants to the United States each month, for stays up to two years, with U.S.-based financial sponsors.<sup>3</sup>

While many laud the government's effort to involve private individuals in supporting immigrants forced from their homes by violence,<sup>4</sup> the programs may expose nonlawyers in Washington and elsewhere to charges of unauthorized practice of law if they provide substantive help to financial sponsor applicants.<sup>5</sup> Uniting for Ukraine and similar programs that facilitate temporary stays in the United States depend on the participation of ordinary individuals. These individuals might be U.S. citizens, but they might also be newcomers with only temporary status—people possibly unfamiliar with formal legal processes

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1. *Uniting for Ukraine*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Jan. 625, 2023), <https://www.uscis.gov/ukraine> [<https://perma.cc/5RMX-67TH>] [hereinafter *Uniting for Ukraine*]; see *infra* Section I.B for more details on this form.

2. *Fact Sheet: Biden–Harris Administration Announces New Border Enforcement Actions*, WHITE HOUSE (Jan. 5, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/> [<https://perma.cc/93T8-ZKUD>] (hereinafter WHITE HOUSE) (expanding parole for Venezuelans, and including Haitians, Nicaraguans, and Cubans).

3. While an unlimited number of Ukrainians can enter the United States under the Uniting for Ukraine community sponsorship program, the sponsorship program for Cubans, Haitians, Nicaraguans, and Venezuelans allows no more than 30,000 newcomers each month. *Id.*; see also *Frequently Asked Question About Uniting for Ukraine, General Questions*, U.S. CITIZENSHIP & IMMIGR. SERVS., <https://www.uscis.gov/humanitarian/uniting-for-ukraine/frequently-asked-questions-about-uniting-for-ukraine> [<https://perma.cc/Q55Q-KS9Y>] [hereinafter *Uniting for Ukraine FAQ*] (stating that there “are no numerical limits on requests for travel authorization or parole under Uniting for Ukraine”).

4. See, e.g., Ilya Somin, *We Sponsored Refugees Under a New Biden Program. The Results Were Astonishing*, CATO INST. (Jan. 3, 2023), <https://www.cato.org/commentary/we-sponsored-refugees-under-new-biden-program-results-were-astonishing> [<https://perma.cc/R7R2-X2TV>] (referring to the results of Uniting for Ukraine as “little short of a miracle” and concluding that “[p]rivate sponsorship is the crucial innovation”); see Matthew La Corte & Cecilia Esterline, *10 Takeaways from New Data on Who Signed Up to Sponsor Displaced Ukrainians*, NISKANEN CTR. (Oct. 6, 2022), <https://www.niskanencenter.org/10-takeaways-from-new-data-who-signed-up-to-sponsor-displaced-ukrainians/> [<https://perma.cc/A3AL-AA9V>] (“Uniting for Ukraine has proven successful in providing a streamlined pathway to temporary status to tens of thousands who faced the devastating reality of needing to flee war. Americans across the country—from all 50 states—rose to the occasion, welcoming Ukrainians into their neighborhoods and communities.”).

5. Wash. Gen. R. 24(a)(1)–(4) (2020).

in the United States or their potential immigration consequences. Applying to serve as a financial sponsor affects the potential sponsor's legal rights.<sup>6</sup> Consequently, a layperson who helps a prospective sponsor through the application process may be running afoul of Washington's complex practice of law rules.<sup>7</sup>

Washington's legislature and Supreme Court have long sought to protect the public from individuals and organizations that provide law-related services without the requisite skills or competencies.<sup>8</sup> This is a particular risk for people seeking advice or services in the area of immigration law because the consequences of inadequate assistance can be catastrophic, often with limited rights of appeal.<sup>9</sup> Recognizing the vulnerabilities of many immigrants in need of immigration law help, the state legislature added to the existing patchwork of rules that regulate the unauthorized practice of law.<sup>10</sup> It specifically proscribed nonlawyers from assisting with certain immigration matters through its 1989 adoption of the Immigration Assistant Practices Act, which it substantially amended in 2011 and renamed as the Immigration Services Fraud Prevention Act.<sup>11</sup>

Evaluating how Washington's rules intersect with a layperson's assistance in completing financial sponsorship application forms is a question that extends well beyond Uniting for Ukraine. The Biden Administration announced a limited but nearly identical program for community sponsorship of Venezuelans in October 2022.<sup>12</sup> And in early January 2023, the Administration exponentially broadened the number of immigrants eligible to seek temporary protection in the United States based on community financial sponsorship.<sup>13</sup> This January 2023 measure, which authorities "modeled on the successful process for Venezuelans and Ukrainians," increased the number of Venezuelans eligible for protection and extended the program to allow temporary stays for people from Haiti,

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6. The financial sponsorship application form requires, for example, that the applicant certify "under penalty of perjury" that the information they provide is "complete, true, and correct." *See infra* notes 72–74 and accompanying text. Moreover, by submitting a completed application, the applicant agrees to provide financial support for a beneficiary's entire two-year stay. *See infra* note 73 and accompanying text.

7. *See infra* Part II; *see also* Section I.B., describing the financial sponsorship application form.

8. The Washington Supreme Court issued "its most comprehensive explanation of what constitutes the 'practice of law' in 1978." TOM ANDREWS, ROB ARONSON, MARK FUCILE & ART LACHMAN, *THE LAW OF LAWYERING IN WASHINGTON* 2-36 (2012) (citing Wash. State Bar Ass'n v. Great W. Union Fed. Sav. & Loan Ass'n, 91 Wn.2d 48 (1978)).

9. *See infra* notes 114–15 and accompanying text.

10. WASH. REV. CODE § 19.154.010–900 (2011).

11. *Id.*

12. Implementation of a Parole Process for Venezuelans, 87 Fed. Reg. 63,507, 63,508 (Oct. 10, 2022) (authorizing parole beginning October 18, 2022, for up to 24,000 Venezuelans with a U.S.-based financial sponsor).

13. WHITE HOUSE, *supra* note 2.

Cuba, and Nicaragua.<sup>14</sup> It allows up to 30,000 individuals per month from these four countries to enter the United States, as long as they have an approved financial sponsor in the United States and meet security and other eligibility criteria.<sup>15</sup>

Moreover, President Biden launched a substantial new private refugee sponsorship program two weeks after expanding the temporary stay initiatives for Ukrainians and others.<sup>16</sup> This new program represents a sea change in the U.S. refugee resettlement system, inviting private sponsor groups to support newly arrived refugees for ninety days.<sup>17</sup> The application process to form a private sponsor group, and the responsibilities of groups supporting refugees, are significantly different from the programs for Ukrainians and others.<sup>18</sup> While private sponsor groups for refugees might raise concerns about whether groups will seek nonlawyer help in completing sponsorship applications, this concern is more apparent with individual community financial sponsors for Ukrainians and others.<sup>19</sup> Accordingly, this Article focuses on the initial programs established to foster community financial sponsorship for the temporary stays of Ukrainians and others.

This Article begins in Part I by examining the application process for potential community financial sponsors, concluding that the application form affects a prospective sponsor's legal rights and that accurately completing it can involve the exercise of legal discretion. Both conclusions

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14. Press Release, U.S. Dep't of Homeland Sec., DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes (Jan. 5, 2023), <https://www.dhs.gov/news/2023/01/05/dhs-continues-prepare-end-title-42-announces-new-border-enforcement-measures-and> [<https://perma.cc/J8JR-BWNE>].

15. *Id.* This 30,000 monthly cap corresponds to Mexico's agreement to accept the return of up to 30,000 individuals per month from these four countries who arrive at the southwest border without having availed themselves of this new parole process. *Id.* The expansion has no expiration date. *Id.* The Department of Homeland Security issued a statement explaining that the expansion is "contingent on the Government of Mexico's willingness to accept the return or removal of nationals from those countries." *Id.*

16. Press Release, U.S. Dep't of State, Off. of the Spokesperson, Fact Sheet—Launch of the Welcome Corps-Private Sponsorship of Refugees (Jan. 19, 2023), <https://www.state.gov/launch-of-the-welcome-corps-private-sponsorship-of-refugees-2/> [<https://perma.cc/4546-4RXD>] [hereinafter Launch of the Welcome Corps].

17. *Id.*

18. *Guides & Tips: Frequently Asked Questions*, WELCOME CORPS, <https://welcomecorps.org/resources/faqs/> [<https://perma.cc/87DP-CWC4>].

19. Sponsor groups formed to support a resettled refugee under Welcome Corps have a dollar target to meet for each refugee sponsored. *Id.* Sponsors must raise a minimum of \$2,375 in cash and in-kind contributions they pledge to use for supporting a newcomer. *Id.* The group agrees to provide support for only ninety days. *Id.* Moreover, the support that private sponsor groups (PSGs) must provide is weighted toward helping newcomers integrate into their new homes and communities. *Id.* ("Most importantly, PSGs offer friendship and support to those adjusting to life in a new community.") Another difference is that members of PSGs must be U.S. citizens or lawful permanent residents, not extending the sponsorship opportunity to temporary immigrants. *Id.*

implicate practice of law rules. Moreover, the form is confusing enough that a sponsor may seek layperson assistance in completing it.

Part II traces the complex landscape of Washington's practice of law regulations generally, and those crafted specifically to address immigration law help. This Part also includes mention of federal immigration regulations that similarly limit who can assist another person in completing immigration forms.

Part III applies these practice of law rules to the context of assistance with financial sponsorship applications. It concludes that a layperson who assists another in completing a financial sponsorship application form may be engaged in the practice of law in Washington. A layperson's assistance that goes beyond acting as a scrivener on a sponsorship form or language translator would likely trigger a violation of Washington's civil and criminal unauthorized practice rules and represents the unauthorized provision of immigration legal services.

#### I. COMMUNITY FINANCIAL SPONSORSHIP PILOT PROGRAMS

The community financial sponsorship programs addressed in this Article are part of a broader federal initiative to reconfigure how the United States selects and welcomes humanitarian immigrants—refugees admitted for permanent residency as well as Ukrainians and others admitted for temporary one- or two-year stays.<sup>20</sup> Shortly after his inauguration, President Biden issued an executive order pledging to rebuild and expand the U.S. Refugee Admission Program.<sup>21</sup> Among other proposals, the order provided plans to “capitaliz[e] on community and private sponsorship of refugees.”<sup>22</sup> Specifically, it ordered Administration officials to create a plan “to welcome refugees by expanding the use of community sponsorship and co-sponsorship models by refugee resettlement agencies, and by entering into new public-private partnerships.”<sup>23</sup> In the middle of January 2023, the Administration launched its innovative “Welcome Corps” program inviting private sponsor groups (PSGs) to support a resettled refugee's integration during their first ninety days in the United States.<sup>24</sup>

Between the 2021 Executive Order promising to rebuild the country's refugee resettlement system, and the January 2023 launch of Welcome Corps, the Administration rapidly rolled out a series of programs to support community financial sponsorship for temporary humanitarian-

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20. Exec. Order No. 14013, 86 Fed. Reg. 8,839 (Feb. 9, 2021).

21. *Id.*

22. *Id.*

23. *Id.* at 8,843.

24. See *Launch of the Welcome Corps*, *supra* note 16.

based immigrants. The first program, Sponsor Circles, offers resources to sponsors who collaborate in groups to support an individual or family temporarily in the United States.<sup>25</sup> The U.S. Department of State initiated Sponsor Circles in October 2021 to support Afghans evacuated as part of Operation Allies Welcome.<sup>26</sup> Next, the Administration introduced the Uniting for Ukraine program in April 2022, which allows a two-year temporary stay in the United States for Ukrainians matched with a U.S.-based private financial sponsor.<sup>27</sup> Six months later, a nearly identical initiative called for private sponsorship of Venezuelan immigrants admitted for a two-year stay.<sup>28</sup> The Administration expanded this initiative within three months for individuals from three other countries.<sup>29</sup> These programs set the groundwork for Welcome Corps, an even broader program that facilitates private sponsorship for refugees admitted for permanent residency.<sup>30</sup>

The programs for Ukrainians, Venezuelans, Cubans, Haitians, and Nicaraguans are virtually identical. They authorize noncitizens to enter the United States under a temporary two-year grant of parole<sup>31</sup> based on

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25. Sponsors currently can join to form a Sponsor Circle for Ukrainian, Cuban, Haitian, Nicaraguan, and Venezuelan beneficiaries. *Sponsor Circles*, SPONSOR CIRCLE PROGRAM, <https://www.sponsorcircles.org/programs> [<https://perma.cc/A78A-49HJ>]. Previously, groups could collaborate to sponsor Afghans airlifted out of their country following the Taliban takeover in August 2021 and get support to do so through the Sponsor Circle program. Telephone interview by Megan J. Ballard with Sarah Krause, Executive Director, Community Sponsorship Hub (Oct. 20, 2022). The Sponsor Circle program for Afghans stopped accepting new applications on August 5, 2022. *Id.*

26. See *Launch of the Welcome Corps*, *supra* note 16.

27. See *Uniting for Ukraine*, *supra* note 1.

28. See Press Release, U.S. Dep’t of Homeland Sec., DHS Announces New Migration Enforcement Process for Venezuelans (Oct. 12, 2022) <https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans> [<https://perma.cc/BE4M-AKCN>].

29. See *Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Jan. 11, 2023), <https://www.uscis.gov/CHNV> [<https://perma.cc/Y3GH-T323>] [hereinafter *Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*].

30. See *Launch of the Welcome Corps*, *supra* note 16 (noting that “Welcome Corps incorporates lessons learned from other emergency initiatives launched over the past year, including the Sponsor Circle Program . . . and sponsorship-based parole programs . . . including Uniting for Ukraine”); Caroline Coudriet, *Biden Administration Plans Private Refugee Sponsorship Program*, ROLL CALL (Sept. 23, 2022), <https://rollcall.com/2022/09/23/biden-administration-plans-private-refugee-sponsorship-program/> [<https://perma.cc/XGD9-ZHWK>].

31. Humanitarian parole allows certain noncitizens to stay temporarily in the United States, without being formally admitted, at the discretion of the Secretary of the Department of Homeland Security. 8 U.S.C. § 1182(d)(5)(A). Authority to parole a foreign national into the United States for a temporary stay is not new. See ANDORRA BRUNO, CONG. RSCH. SERV., R46570, IMMIGRATION PAROLE 1 (2020). Congress authorized the executive branch to extend immigration parole seventy years ago for urgent humanitarian reasons or significant public benefit. *Id.* (citing 8 U.S.C. § 1182(d)(5)). The U.S. immigration system does not consider parole to be formal admission to the United States. See *id.* A parolee is required to leave the United States before their period of parole expires unless they secure “re-parole” or are admitted as a lawful immigrant through another route. *Id.* at 2.

assurances of a financial sponsor in the United States.<sup>32</sup> For clarity and ease, this Article describes the community financial sponsorship process by referencing Uniting for Ukraine, the first of these programs.<sup>33</sup>

#### A. *Uniting for Ukraine*

In response to the February 2022 Russian invasion of Ukraine, President Biden announced a new humanitarian relief program—*Uniting for Ukraine*—on April 21, 2022.<sup>34</sup> Uniting for Ukraine allows Ukrainian citizens and their immediate family members who fled their country because of Russian violence to enter the United States and stay for two years under a grant of parole.<sup>35</sup> Ukrainians interested in applying for the program must have a U.S.-based sponsor who promises to provide financial support for the duration of their parole stay.<sup>36</sup>

Secretary of Homeland Security Alejandro Mayorkas asserted that the United States welcomed more than 115,000 Ukrainians through Uniting for Ukraine from the program's inception through the end of February 2023.<sup>37</sup> Additionally, a December 2022 U.S. Citizenship and Immigration Services (USCIS) report stated that the agency approved over 177,000 applications for financial supporters.<sup>38</sup> As of September 2022, over 9,500 Washingtonians applied to privately sponsor Ukrainians,

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32. One discernable difference is that Ukrainian beneficiaries are allowed to work for ninety days without USCIS employment authorization. *Uniting for Ukraine FAQ*, *supra* note 3. But beneficiaries from Cuba, Haiti, Nicaragua, and Venezuela must first apply for and receive employment authorization to be eligible to work. *Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, *supra* note 29.

33. The Biden Administration launched Uniting for Ukraine six months before beginning the similar process for Venezuelans. *See Uniting for Ukraine*, *supra* note 1 (describing the program initiated April 21, 2022); *see also USCIS Implements New Process for Venezuelans*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Oct. 18, 2022), <https://www.uscis.gov/newsroom/alerts/uscis-implements-new-process-for-venezuelans> [<https://perma.cc/Y3GH-T323>] (describing the process for Venezuelans announced on October 12, 2022). The Administration expanded this program on January 5, 2023. *Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, *supra* note 29.

34. *See Uniting for Ukraine*, *supra* note 1.

35. *See id.*

36. *See id.*

37. Press Release, Homeland Sec., Statement from Secretary Mayorkas on the Anniversary of Russia's Unprovoked Invasion of Ukraine (Feb. 24, 2023), <https://www.dhs.gov/news/2023/02/24/statement-secretary-mayorkas-anniversary-russias-unprovoked-invasion-ukraine> [<https://perma.cc/2RHP-HEEE>].

38. U.S. CITIZENSHIP & IMMIGR. SERVS., FISCAL YEAR 2022 PROGRESS REPORT 9 (2022), [https://www.uscis.gov/sites/default/files/document/reports/OPA\\_ProgressReport.pdf](https://www.uscis.gov/sites/default/files/document/reports/OPA_ProgressReport.pdf) [<https://perma.cc/EZ5S-N7Z8>].

ranking Washington fourth in the nation in terms of the number of people applying to become financial sponsors.<sup>39</sup>

The executive branch has developed special parole programs over the years to help specific populations, but the community sponsorship aspect of Uniting for Ukraine and successor programs for Venezuelans, Cubans, Haitians, and Nicaraguans appears to be unique.<sup>40</sup> Some prior parole programs were created to facilitate family reunification and required a U.S.-based family member to serve as a sponsor.<sup>41</sup> Other parole programs did not appear to require any U.S.-based sponsor.<sup>42</sup> Yet the Biden Administration created Uniting for Ukraine and its successors with an intent to bolster community involvement in providing humanitarian relief.<sup>43</sup>

Uniting for Ukraine and its successor programs are also very different from more permanent immigration benefits based on family connections or refugee status. First, immigrants who enter because of specified family relationships or refugee status are formally admitted and eligible to stay permanently in the United States, compared to the limited

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39. See Camilo Montoya-Galvez, *5 States Account for Half of 123,962 Requests to Sponsor Ukrainian Refugees in U.S.*, CBS NEWS (Sept. 13, 2022), <https://www.cbsnews.com/news/ukrainian-refugees-sponsors-5-states-applications/> [<https://perma.cc/8W42-FUQC>] (reporting data as of September 9, 2022).

40. While the statute authorizing parole allows the executive branch to grant it “only on a case-by-case basis,” it has been wielded to protect various populations under different circumstances. 8 U.S.C. § 1182(d)(5)(A). ANDORRA BRUNO, CONG. RSCH. SERV., R46570, IMMIGRATION PAROLE 1 (2020). See also AM. IMMIGR. COUNCIL, THE USE OF PAROLE UNDER IMMIGRATION LAW 3–6 (2023), [https://www.americanimmigrationcouncil.org/sites/default/files/research/the\\_use\\_of\\_parole\\_under\\_immigration\\_law\\_2023\\_update.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/the_use_of_parole_under_immigration_law_2023_update.pdf) [<https://perma.cc/2A7J-B3XQ>] [hereinafter THE USE OF PAROLE]. Prior to the creation of our current refugee admission program in 1980, parole was used to provide protection to “hundreds of thousands of individuals from Cuba, Indochina, Eastern Europe, and other areas.” BRUNO, CONG. RSCH. SERV., R46570, at 8.

41. For example, the Cuban Family Reunification Parole Program, the Haitian Family Reunification Parole Program, and the Filipino World War II Veterans Parole Program required sponsoring family. See BRUNO, CONG. RSCH. SERV., R46570, at 9–11; THE USE OF PAROLE, *supra* note 40, at 4–5. The two iterations of The Central American Minors program also required a qualifying parent in the United States. BRUNO, CONG. RSCH. SERV., R46570 at 9; THE USE OF PAROLE, *supra* note 40, at 4.

42. The Cuban Medical Professional Parole Program, for example, did not require participants to be backed by a U.S. sponsor. U.S. DEP’T OF STATE, CUBAN MEDICAL PROFESSIONAL PAROLE PROGRAM (2009), <https://2009-2017.state.gov/p/wha/rls/fs/2009/115414.htm> [<https://perma.cc/J6U2-29Q5>] (listing three criteria for a program eligibility, none of which included a U.S.-based sponsor). The Homeland Security and State Departments initiated the program in 2006 and concluded it as of January 2017. *Cuban Medical Professional Parole (CMPP) Program*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Jan. 19, 2017), <https://www.uscis.gov/humanitarian/humanitarian-parole/cuban-medical-professional-parole-cmpp-program> [<https://perma.cc/D5RC-LY29>].

43. See *Uniting for Ukraine*, *supra* note 1 and accompanying text.

two-year stay authorized under Uniting for Ukraine and its progeny.<sup>44</sup> Second, unlike family-based immigration petitions, a Uniting for Ukraine sponsor does not need to be a relative or even someone the Ukrainian beneficiaries have met.<sup>45</sup> Uniting for Ukraine also depends on a private financial sponsor to support newcomers for two years.<sup>46</sup> In contrast, a family member sponsoring a relative for permanent residency must pledge financial support for up to ten years.<sup>47</sup> Traditionally, a person admitted as a refugee relies on federal financial and logistical support. However, in most cases, this support lasts only for the refugee's first three months in the United States.<sup>48</sup> The new Welcome Corps initiative allows private sponsor groups to replace federal support.<sup>49</sup>

Becoming a sponsor for a Ukrainian individual or family involves an application that represents a commitment to provide financial support.<sup>50</sup> And, like most immigration processes, applying to become a sponsor can be very confusing, despite instructions that accompany the form.<sup>51</sup> Friends or other well-meaning supporters offering to help with this application

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44. See 8 U.S.C. § 1151(a)(1) and (b)(2)(A)(i) (providing that family-sponsored immigrants and immediate relatives of U.S. citizens are among the noncitizens who may acquire lawful permanent residence status); 8 U.S.C. § 1159(a) (stating that noncitizens admitted to the United States as refugees must apply for permanent residency within one year of their admission); see also *Uniting for Ukraine*, *supra* note 1 (noting that Uniting for Ukraine allows Ukrainians participating in the program to stay temporarily in the United States for a two-year parole period).

45. See *Uniting for Ukraine*, *supra* note 1 (stating that supporters “must be in lawful status in the United States or a parolee or beneficiary of deferred action or Deferred Enforced Departure”). See also *Uniting for Ukraine: What You Need To Know: Sponsor FAQs*, WELCOME.US <https://ukraine.welcome.us/faq> [<https://perma.cc/9PPQ-YH8Y>] (instructing that a sponsor does not need to be related to the Ukrainian beneficiary). Individuals executing an affidavit of support for immediate relative and family-based immigrants, however, must be the family member who files the visa petition. 8 C.F.R. § 213a.2(b)(1). A joint sponsor, however, does not need to be related to the intending family-based immigrant. 8 C.F.R. § 213a.2(c)(2)(iii)(C).

46. See *Uniting for Ukraine*, *supra* note 1.

47. Various events can trigger the termination of a family member's support obligation for family-based immigrants. See 8 C.F.R. § 213a.2(e)(2). These include the point at which the sponsored immigrant has worked “40 qualifying quarters of coverage” under the Social Security Act. 8 C.F.R. § 213a.2(e)(2)(i). The U.S. Department of State summarizes that a “sponsor's financial responsibility usually lasts until the applicant either becomes a U.S. Citizen, or can be credited with 40 qualifying quarters of work (usually 10 years) under the Social Security Act.” *Immigrant Visa Process*, U.S. DEP'T OF STATE, <https://travel.state.gov/content/travel/en/us-visas/immigrate/the-immigrant-visa-process/step-1-submit-a-petition/affidavit-of-support.html> [<https://perma.cc/2GHH-FBWL>].

48. Refugees resettled in the United States through the U.S. Refugee Admissions Program are eligible for support and services during their initial thirty to ninety days after arrival. *U.S. Refugee Admissions Program: Reception and Placement*, U.S. DEP'T OF STATE, <https://www.state.gov/refugee-admissions/reception-and-placement/> [<https://perma.cc/5KBB-BBVE>].

49. See *Launch of the Welcome Corps*, *supra* note 16.

50. See *infra* note 74 and accompanying text.

51. As Washington's Practice of Law Board noted, in addressing unlawful practice in immigration, the instructions that accompany most immigration forms “are not adequate for a nonlawyer to navigate the immigration field.” Correspondence to Barbara A. Madsen, C.J., Prac. of L. Bd., State of Wash. (Oct. 31, 2011) (on file with the authors) [hereinafter POLB Correspondence].

process run the risk of engaging in the unauthorized practice of law. Washington’s Practice of Law Board has stated that nonlawyers cannot “explain the content of [immigration] forms, or advise applicants on how to complete the forms” without violating practice of law proscriptions.<sup>52</sup>

The remainder of this section describes elements of the financial sponsor application process, including sponsor eligibility and the gist of information a sponsor applicant must provide to USCIS. This discussion illustrates both the difficulties an applicant might encounter in completing the form without help from an attorney, as well as the legal import of an application.

### *B. Financial Sponsorship Application*

A person wishing to be a Uniting for Ukraine sponsor—the “applicant”—begins the process by completing a “Declaration of Financial Support” and submitting it to USCIS.<sup>53</sup> The Declaration is an application that requires a potential sponsor primarily to prove that they have sufficient financial resources to fulfill sponsorship responsibilities.<sup>54</sup> It also allows immigration authorities to vet sponsor applicants to protect Ukrainians against exploitation and abuse.<sup>55</sup> The application form requires, for example: general information about the applicant, including biographic data and immigration status; and the applicant’s financial information, including employment status, income, assets, financial responsibility to other sponsored beneficiaries, if any; and the applicant’s intent, if any, to provide specific contributions to the beneficiary.<sup>56</sup> Sponsorship applicants must provide evidence of income or financial

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52. *Id.* The 2011 bill amending the Immigration Assistant Practices Act included a request to the Supreme Court’s practice of law board to evaluate, among other things, “[t]he specific services nonattorneys may provide to immigrants that do not rise to the level of the practice of law in immigration matters.” 2011 Wash. Sess. Laws 1637. The legislature made this request after noting the difficulty in distinguishing “the difference between offering nonlegal services and offering legal services in immigration matters.” *Id.*

53. See *Uniting for Ukraine*, *supra* note 1.

54. *Id.*

55. See *Uniting for Ukraine FAQ*, *supra* note 3. USCIS states that “in addition to determining a potential supporter’s financial ability to support their beneficiary during the duration of the parole period, we also conduct security and background vetting on supporters, including for serious public safety or national security concerns or red flags for exploitation or human trafficking risks.” *Id.* (navigate to drop down section titled: “Questions Relating to Supporters”).

56. U.S. CITIZENSHIP & IMMIGR. SERVS., FORM I-134, DECLARATION OF FINANCIAL SUPPORT (2023) [hereinafter USCIS I-134]. Note that citations are to the USCIS Form I-134 that is downloadable from the USCIS website and not the online Form I-134A. Attorneys and legal representatives were not able to access the online version of the form at the time of publication. See *infra* note 84.

resources by submitting bank statements, federal tax returns, verification of employment and salary, or other relevant proof.<sup>57</sup>

To be eligible to serve as a financial sponsor, a person must have lawful status in the United States, whether as a citizen, permanent resident, or temporary status.<sup>58</sup> For example, a noncitizen in the United States under a grant of “Temporary Protected Status” is eligible to apply to become a financial sponsor; a noncitizen protected by the Deferred Action for Childhood Arrival (DACA) program can apply as well.<sup>59</sup> This is noteworthy for two reasons. First, potential sponsors completing an application may be developing their English language skills and struggle with the language used in the application or its instructions.<sup>60</sup> Second, a potential finding of misrepresentation in completing a sponsorship application could have immigration consequences for such applicants.<sup>61</sup>

At the outset of the Uniting for Ukraine program, the thirteen-page Declaration form (Form I-134) was found on the USCIS website and downloadable for free, along with a separate set of instructions that provided guidance and information about evidentiary requirements.<sup>62</sup> While the form and instructions are still available on the USCIS website, individuals applying to become sponsors must now complete and submit Form I-134A online.<sup>63</sup>

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57. *See Uniting for Ukraine FAQ*, *supra* note 3.

58. *See id.*

59. *See id.* The same is true for the expanded parole programs for Cuba, Haiti, Nicaragua, and Venezuela. *See Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, *supra* note 29.

60. The form asks, for example, about “aliases, maiden name, and nicknames.” USCIS I-134, *supra* note 56, at 1 (seeking information about the beneficiary) and at 4 (seeking information about the sponsor applicant). The financial sponsor applicant must also sign a seven-paragraph certification. *Id.* at 9. One sentence in this certification reads: “I certify, under penalty of perjury, that I provided or authorized all of the information in my declaration, I understand all of the information contained in, and submitted with, my declaration, and that all of this information is complete, true, and correct.” *Id.*

61. For example, a person lawfully present in the United States through the DACA program may apply to become a financial sponsor for a Ukrainian. *See* U.S. CITIZENSHIP & IMMIGR. SERVS INSTRUCTIONS FOR CONSIDERATION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS: FORM I-821D, at 2 (2022). An individual who is granted deferred action must apply to renew that protection every two years. Renewal is discretionary. *See id.* at 1. Conviction of a felony or significant misdemeanor will bar renewal. *See id.* at 2, 11. In other words, a DACA recipient who falsified or concealed a material fact on a financial sponsorship application could be convicted for this infraction and lose their DACA protection, which could result in deportation to a country in which they may have no memory of ever residing. *See id.* at 13.

62. *See Uniting for Ukraine FAQ*, *supra* note 3.

63. *See id.* Those applying to sponsor parolees from Cuba, Haiti, Nicaragua, and Venezuela must also submit their application through the online process. *See Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, *supra* note 29.

### C. Application Complexities

As with most USCIS forms, parts of the Declaration form are complex, particularly for someone who is not a native English speaker. Certain terms may not translate cleanly between languages or between colloquial and bureaucratic meanings. For example, an applicant must provide information about their own “income and assets” as well as the Ukrainian beneficiary’s “income and assets.”<sup>64</sup> The form also requires information about individuals that the applicant “financially supports” and those that the Ukrainian beneficiary might financially support.<sup>65</sup> What immigration authorities consider income, assets, or financial support for the purposes of this form may not be readily apparent. For example, an applicant can list as an asset “the net value” of a home (“the appraised value of the home, minus the sum of all loans secured by a mortgage, trust deed, or other lien on the home”) if a licensed appraiser has “recently” appraised it.<sup>66</sup>

Completion of this form also requires the applicant to exercise discretion that may have legal consequences. For example, the applicant must decide if he or she intends to provide contributions to the Ukrainian beneficiary, and if so, whether such contributions will be financial or in-kind.<sup>67</sup> It also requires the applicant to determine which of their own assets they wish to identify as those available to support the beneficiary, including only assets that can be converted into cash within twelve months.<sup>68</sup>

Because of the complex nature of this form some people wishing to apply to be Uniting for Ukraine sponsors have asked others for help in

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64. USCIS I-134, *supra* note 56, at 1–7.

65. *Id.*

66. This applies to a beneficiary’s assets as well as the applicant’s assets.. U.S. CITIZENSHIP & IMMIGR. SERVS., FORM I-134 INSTRUCTIONS, DECLARATION OF FINANCIAL SUPPORT 4–5 (2023) [hereinafter USCIS I-134 INSTRUCTIONS]. Responding to this question could be particularly challenging for a beneficiary who owns real estate in a country without licensed real estate appraisers. Similarly, a previous version of the application form was even more confusing. In seeking information about the beneficiary’s income and the sponsor applicant’s income it asked if any of the income listed comes “from means-tested public benefits as defined in 8 CFR 213a.1.” U.S. CITIZENSHIP & IMMIGR. SERVS., FORM I-134, pt. 2, question 20, and pt. 3, question 18 (Oct. 18, 2022) (on file with the authors). A person unfamiliar with means-tested public benefits or with the Code of Federal Regulations, or its CFR abbreviation, likely would have had difficulty responding to this question.

67. USCIS I-134, *supra* note 56, at 8, pt. 3, question 21.

68. *Id.* at 7. USCIS I-134 INSTRUCTIONS, *supra* note 66, at 4. The applicant must also provide information about the beneficiary’s assets, if any, available for his or her support during their stay in the United States. USCIS I-134, *supra* note 56, at 4. While the beneficiary presumably provides the potential sponsor with this information, the sponsor applicant must determine a value of these assets in U.S. dollars. USCIS I-134 INSTRUCTIONS, *supra* note 66, at 4.

completing it.<sup>69</sup> But this form is a legal document that affects the legal rights of the applicant, and its completion requires the exercise of judgment. Accordingly, helping an applicant to complete it likely represents the practice of law under Washington rules.<sup>70</sup> For example, by signing and submitting the form, the applicant agrees to two things. First, the applicant is certifying “under penalty of perjury” that all the information in the Declaration is “complete, true, and correct.”<sup>71</sup> The Declaration’s instructions state that falsification or concealment of a material fact could result “in severe penalties provided by law and may be subject to criminal prosecution.”<sup>72</sup> Second, the applicant is making a commitment to provide financial support to a Ukrainian beneficiary during their entire two-year stay.<sup>73</sup> The Certification section of the Declaration states as follows: “I acknowledge that I have read this section, and I am aware of my responsibilities as an individual agreeing to financially support the beneficiary.”<sup>74</sup>

Despite these consequences, USCIS implicitly authorizes a layperson to help an applicant wishing to serve as a financial sponsor. One section of the Declaration is reserved for completion by “the Person Preparing this Declaration, if Other Than the Individual Agreeing to Financially Support the Beneficiary.”<sup>75</sup> The preparer must provide contact information and check a box to indicate whether the preparer is or is not an attorney or other person authorized by the government to help with immigration matters.<sup>76</sup> In other words, the application form on its face allows a layperson to provide help in completing the form.<sup>77</sup> The form does not expressly forbid a layperson from exercising their judgment but rather

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69. Anecdotal evidence collected by one of the authors through consultations with members of the Slavic community in Spokane, Washington.

70. *See infra* Part II.

71. USCIS I-134, *supra* note 56, at 9.

72. USCIS I-134 INSTRUCTIONS, *supra* note 66, at 7.

73. *See id.* at 1 (“The individual who signs and submits Form I-134 must establish that he or she has both sufficient financial resources and access to those funds to support the beneficiary listed . . . for the duration of the beneficiary’s stay in the United States.”).

74. USCIS I-134, *supra* note 56, at 10. It is not clear whether this creates a legally enforceable contact between a sponsor and the U.S. government or between a sponsor and a beneficiary. There is no language on Form I-134 or its instructions to indicate that sponsorship establishes an enforceable contract. USCIS has expressly stated in a different context that a sponsor who submits a Form I-864 Affidavit of Support is a party to a legally enforceable contract. *Affidavit of Support*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Mar. 19, 2021), <https://www.uscis.gov/green-card/green-card-processes-and-procedures/affidavit-of-support> [<https://perma.cc/4CMY-HCGT>]. A family member or employer uses a Form I-864, Affidavit of Support, to sponsor someone to become a lawful permanent resident. *Id.*

75. USCIS I-134, *supra* note 56, at 11–12.

76. *Id.* at pt. 7. “[P]reparer’s Statement . . . I am not an attorney or accredited representative but have prepared this declaration on behalf of the individual agreeing to financially support the beneficiary . . . and with that individual’s consent.” *Id.* at 12.

77. *See id.*

requires the preparer to certify that they “completed this declaration based only on information that the individual agreeing to financially support the beneficiary provided.”<sup>78</sup> The federal regulations, addressed below in Part II.C., limit a layperson’s assistance to transcribing objective data under limited circumstances.<sup>79</sup> But this limitation is not apparent on the Declaration of Financial Support form.

The more recently created programs allowing Cubans, Haitians, Nicaraguans, and Venezuelans to come to the United States with the help of a U.S.-based financial sponsor operate in the same manner as the process for Ukrainians.<sup>80</sup> A person in the United States wishing to serve as a financial sponsor for an individual from one of these four countries initiates the process by completing the same application as those seeking to sponsor a Ukrainian—the “Online Request to be a Supporter and Declaration of Financial Support.”<sup>81</sup> A potential sponsor must complete and file this form online.<sup>82</sup> And like the Uniting for Ukraine program, a beneficiary from one of these other four countries who successfully navigates the process with an approved financial sponsor is only authorized to stay in the United States for two years.<sup>83</sup>

The change that requires a potential sponsor to apply online might increase the prospects that a layperson will lend assistance. If a prospective financial sponsor seeks the help of an attorney, there currently is no way the attorney can complete the sponsorship application form on behalf of a client, or even review a form already completed by a client.<sup>84</sup> If a potential sponsor needs help completing the online application form, they apparently must find someone who can accompany them as they respond to questions and upload required proof. While a lawyer could sit with a client as they navigate this online process, an applicant might more easily turn to a friend for such help.

The next section addresses Washington’s regulation of the practice of law to determine whether a layperson helping another to complete a sponsorship application risks violating these rules.

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78. *Id.* at 12 (“Preparer’s Certification”).

79. *Infra* note 128 and accompanying text.

80. *See generally* USCIS I-134 INSTRUCTIONS, *supra* note 66 (overview of the Ukrainian process); *see also* Processes for Cubans, Haitians, Nicaraguans, and Venezuelans, *supra* note 29.

81. *Id.*

82. *See id.*

83. *See id.*

84. *See Frequently Asked Questions About the Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Jan. 5, 2023), <https://www.uscis.gov/humanitarian/frequently-asked-questions-about-the-processes-for-cubans-haitians-nicaraguans-and-venezuelans> [<https://perma.cc/76W2-DED4>]. The section addresses filing the Form I-134A clarifies that “there is no option at this time for an attorney or accredited representative to use an online representative account to file a Form I-134 on behalf of a supporter.” *Id.*

## II. REGULATION OF THE PRACTICE OF LAW IN WASHINGTON

Three different sets of rules limit the degree to which a nonlawyer can help another person complete a sponsorship form without engaging in the unauthorized practice of law. First, Washington has a complex collage of statutory and case law proscribing the unauthorized practice of law, bolstered by the Washington Supreme Court’s rule defining “the practice of law.”<sup>85</sup> Second, Washington adopted legislation specifically targeting the unauthorized provision of immigration legal services.<sup>86</sup> And finally, federal immigration regulations further proscribe services related to immigration law by individuals who are not authorized to provide them.<sup>87</sup>

### A. General “Practice of Law” Rules

The broadest set of Washington rules weaves together common law, statutory law, and state court rules to define and penalize the unauthorized practice of law. Civil sanctions coexist simultaneously with criminal penalties. Washington’s legislature has made the unlawful practice of law a criminal offense through the State Bar Act, R.C.W. 2.48.<sup>88</sup> This legislation authorizes criminal penalties for (1) anyone who does not have a limited authorization to practice law or is not an active member of the state bar association, and who either practices law or presents themselves as entitled to practice law, as well as (2) for a person who has a limited authorization to practice law but practices law outside the scope of that authorization.<sup>89</sup> The law specifically states that courts can continue to “grant injunctive or other equitable relief” or punish a person by contempt proceedings for violations.<sup>90</sup> Cases in both the civil and criminal contexts have relied on common law definitions of the practice of law as well as the definition outlined in Washington State Court General Rule 24 (GR 24).<sup>91</sup>

85. See *infra* Section II.A describing these general practice of law rules.

86. See *infra* Section II.B describing the Immigration Services Fraud Prevention Act, WASH. REV. CODE § 19.154.010–900 (2011).

87. See *infra* Section II.C describing the 8 C.F.R. § 1001.1 and 8 C.F.R. § 1003.102.

88. WASH. REV. CODE § 2.48.180 (2022).

89. REV. § 2.48.180(3). This prohibition exempts nonlawyers licensed as Limited License Legal Technicians (LLLTs). *Id.* The Washington Supreme Court created the LLLT program in 2012 allowing qualified and licensed nonlawyers to provide a narrow range of legal services to clients to broaden access to justice. Brooks Holland, *The Washington State Limited License Legal Technician Practice Rule: A National First in Access to Justice*, 82 MISS. L.J. SUPRA 75, 77 (2013). In June 2020, the Court ruled to sunset the LLLT program. See *Decision to Sunset LLLT Program*, WASH. STATE BAR ASS’N (Oct. 8, 2021), <https://www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-license-legal-technicians/decision-to-sunset-lllt-program> [https://perma.cc/2TKC-YZ28].

90. REV. § 2.48.180(4).

91. See, e.g., *State v. Yishmael*, 456 P.2d 1172, 1174–75 (2020).

The Washington Supreme Court adopted GR 24 in 2001 to provide a formal definition of the “practice of law.”<sup>92</sup> While this rule helps to clarify prior cases that had attempted to define what constituted the practice law, it did not entirely resolve complexities surrounding when the practice of law by a layperson might be authorized. The rule provides a list of actions that are permitted, whether they amount to the practice of law or not, but it is illustrative rather than exclusive. The final enumerated permitted action is a catch-all that incorporates “[s]uch other activities that the Supreme Court has determined by published opinion to not constitute the unlicensed or unauthorized practice of law or that have been permitted under a regulatory system established by the Supreme Court.”<sup>93</sup>

The upshot, for purposes of this Article, is that completing a preprinted legal form for another person—such as those required for sponsorship—amounts to the practice of law, but not always one that is “unauthorized” when performed by a nonlawyer. Summarizing prior cases, GR 24 states that the practice of law includes the “[s]election, drafting, or completion of legal documents or agreements which affect the legal rights of an entity or person(s).”<sup>94</sup> To narrow the reach of this proscription, Washington Supreme Court cases have carved out exceptions. The clearest is the pro se exception allowing a layperson to prepare their own legal documents without triggering unauthorized practice of law penalties.<sup>95</sup> Additional cases, however, allow some nonlawyers to engage in the practice of law for another person by entering data onto a legal form under certain circumstances.<sup>96</sup>

The Washington Supreme Court employs a balancing test to determine when completing a legal form for someone is a permissible practice of law. The test compares the “competing public interests of (1) protecting the public from the harm of the lay exercise of legal discretion and (2) promoting convenience and low cost.”<sup>97</sup> Accordingly, the court held in *Cultum v. Heritage House Relators* that a licensed real estate broker may complete a standardized real estate conveyancing form, but this nonlawyer broker will be held to an attorney’s standard of care in

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92. Wash. Gen. R. 24. The Washington Supreme Court was the first court in the country to adopt a definition of the practice of law by rule. ANDREWS, ARONSON, FUCILE & LACHMAN, *supra* note 8, at 2-35.

93. Wash. Gen. R. 24(b)(11).

94. Wash. Gen. R. 24(a)(2).

95. *See, e.g.*, Wash. State Bar Ass’n v. Great W. Union Fed. Sav. & Loan Ass’n, 586 P.2d 870 (1978); Wash. State Bar Ass’n v. Wash. Ass’n of Realtors, 251 P.2d 619, 622 (1952).

96. *See* Perkins v. CTX Mortgage Co., 969 P.2d 93(1999); *see also* Cultum v. Heritage House Realtors, Inc., 694 P.2d 630 (1985).

97. *Perkins*, 969 P.2d at 99.

doing so.<sup>98</sup> Similarly, the court declared in *Perkins v. CTX Mortgage Co.* that a mortgage lender’s staff may enter objective data in the legal forms ordinarily associated with financing activities.<sup>99</sup>

Of the two cases, *Perkins*—authorizing laypersons to prepare real estate financing documents, is more analogous to the situation of a layperson assisting with a sponsorship application.<sup>100</sup> Neither situation involves a layperson who holds a professional license, an extra layer of protection to the public possessed by the realtor in *Cultum*.<sup>101</sup>

In *Perkins*, the lender’s lay employees’ act of entering objective data onto a form prepared by a lawyer represented the practice of law.<sup>102</sup> But the court authorized these activities after applying its two-part balancing test. First, the court concluded that such services posed a low risk of harm to the public because the document preparer did not exercise legal discretion.<sup>103</sup> Second, the court determined that the public had a significant interest in low cost and convenient lending services.<sup>104</sup> Indeed, the court declared in *Perkins* that “we have never prohibited the mere clerical entry of data into a printed legal form.”<sup>105</sup> The court in *Perkins* also rejected the notion that compensation, or lack thereof, plays a role in determining whether lay preparation of legal documents amounts to unauthorized practice of law.<sup>106</sup> In its opinion, the court stressed that the decision turns on the nature and character of the services performed and not whether the nonlawyer charged fees.<sup>107</sup> In both *Perkins* and *Cultum*, the service of completing forms with objective information was closely related to the lay individual’s primary and beneficial work activities—the purchase and sale of residential real estate in *Cultum* and the financing activities in *Perkins*.<sup>108</sup>

A layperson’s assistance with completing a financial sponsorship application form, however, is different from the activities at issue in *Cultum* and *Perkins*. Completion of this immigration-related form may involve an exercise of legal discretion. As such, this assistance could pose a risk, particularly to financial sponsor applicants who are noncitizen

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98. *Cultum*, 694 P.2d at 637 (Brachtenbach, J., concurring).

99. *Perkins*, 137 Wn.2d at 100.

100. See generally *id.*

101. See *Cultum*, 694 P.2d at 634–35.

102. See *Perkins*, 137 Wn.2d at 98.

103. *Id.* at 99.

104. *Id.* Allowing mortgage lender staff to complete loan documents “relieves borrowers of the cost and inconvenience of having attorneys prepare their loan documents.” *Id.* at 100.

105. *Id.* at 99.

106. *Id.* at 97.

107. *Id.*

108. *Cultum v. Heritage House Realtors, Inc.*, 694 P.2d 630, 634–35 (1985); *Perkins*, 969 P.2d at 100.

immigrants themselves. Immigration authorities could interpret an error as fraud or misrepresentation with serious consequences for noncitizens.

### *B. Immigration Services Fraud Prevention Act*

The second set of rules limiting the ability of a layperson to help someone complete a sponsorship application form is found within the Immigration Services Fraud Prevention Act.<sup>109</sup> This act declares its purpose is to protect consumers by prohibiting “nonlawyers and other unauthorized persons from providing immigration-related services that constitute the practice of law.”<sup>110</sup>

A combination of factors renders immigration law particularly prone to deceptive practices by unauthorized nonlawyers. While immigration law is byzantine in its complexity,<sup>111</sup> immigrants may not be comfortable consulting an attorney in an unfamiliar legal system, may not be able to afford legal help, and could be dissuaded by language barriers. It is also an area of law involving an enormous number of forms, most of which are available free of charge on various governmental agency websites with accompanying instructions for completion and filing.<sup>112</sup> The easy access to such forms provides an opportunity for unscrupulous nonlawyers to hold themselves out as experts.<sup>113</sup>

At the same time, other elements of immigration practice establish a particularly strong public interest in protecting those individuals who seek legal services for immigration matters. The consequences for an immigrant who receives inadequate or fraudulent legal assistance can be catastrophic, including detention, deportation, and permanent restrictions from reentering the United States or becoming a lawful permanent

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109. Immigration Services Fraud Prevention Act, WASH. REV. CODE § 19.154.010–900 (2011).  
110. REV. § 19.154.010.

111. *E.g.*, *Mezo v. Holder*, 615 F.3d 616, 621 (6th Cir. 2010) (referring to “our Byzantine immigration laws”); *Castro-O’Ryan v. U.S. Dep’t of Immigr. & Naturalization*, 847 F.2d 1307, 1312 (9th Cir. 1987) (stating that “[w]ith only a small degree of hyperbole, the immigration laws have been termed ‘second only to the Internal Revenue Code in complexity’ . . . [a] lawyer is often the only person who could thread the labyrinth”).

112. Immigration forms are found on websites of the U.S. Citizenship and Immigration Service (USCIS), the State Department, U.S. Customs and Border Protection, the Department of Justice, and the Department of Labor. *See All Forms*, U.S. CITIZENSHIP & IMMIGR. SERVS., <https://www.uscis.gov/forms/all-forms> [<https://perma.cc/UR88-YET7>] (the USCIS website includes 107 forms); *see Form Finder*, U.S. DEP’T OF STATE, <https://eforms.state.gov> [<https://perma.cc/SE8G-5TS9>]; *see CBP Forms*, U.S. CUSTOMS & BORDER PROTECTION, <https://www.cbp.gov/newsroom/publications/forms> [<https://perma.cc/WN2E-VFM3>]; *see Downloadable Forms*, U.S. DEP’T OF JUST., <https://www.justice.gov/eoir/list-downloadable-eoir-forms> [<https://perma.cc/AB7S-4G5P>]; *see Forms*, U.S. DEP’T OF LAB., <https://www.dol.gov/general/forms> [<https://perma.cc/ZS6J-ABJE>].

113. POLB correspondence, *supra* note 51, at 2.

resident.<sup>114</sup> Moreover, there often is no review of, or right to appeal, many adverse immigration decisions.<sup>115</sup> Even when the law allows some measure of review, recourse may be limited.<sup>116</sup>

Washington’s Immigration Services Fraud Prevention Act divides prohibited practices into two types: (1) those that are prohibited when an unlicensed or unauthorized person engages in them for compensation; and (2) those that are prohibited regardless of whether the actor seeks compensation.<sup>117</sup>

The acts or practices forbidden when the layperson seeks compensation include three overlapping activities that relate to completing government immigration forms: “completing legal documents affecting the legal rights of another in an immigration matter;”<sup>118</sup> “explaining, advising, or otherwise interpreting the meaning or intent of a question on a government agency form in an immigration matter;”<sup>119</sup> and “advising another as to his or her answers on[] a government agency form or document in an immigration matter.”<sup>120</sup> Together, these sections very clearly prohibit a layperson from charging a fee for helping another individual to complete their sponsorship application form. This is the case even when the sponsorship applicant is a United States citizen, not subject to some of the harms the Immigration Services Fraud Prevention Act seeks to prevent.

Acts or practices that the legislation prohibits, regardless of compensation, generally relate to the unlicensed or unauthorized practitioner’s representations or advertising.<sup>121</sup> Thus, a layperson violates

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114. Parsad v. Granholm, No. 1:08-cv-962, 2009 WL 10677876, at \*9 (W.D. Mich. Mar. 30, 2009) (noting that “[b]esides the loss of money or delays in receiving a work permit or visa, failure to properly complete forms or filing an incorrect form can have dire consequences for the immigrant seeking legal status, naturalization, or a work permit”); *see also* POLB correspondence, *supra* note 51, at 2.

115. IRA J. KURZBAN, *KURZBANS’ IMMIGRATION LAW SOURCEBOOK 1810–11* (17th ed., 2020) (listing twelve matters over which the Board of Immigration Appeals (BIA) has no jurisdiction and referencing the BIA Practice Manual for a more extensive list); *id.* at 1841 (stating that matters not objected to or raised before an immigration judge are waived); *id.* at 1895–96 (discussing Congressional action to abolish many forms of judicial review of immigration decisions); *see also* POLB correspondence, *supra* note 51, at 2 (noting that “immigrants have reduced access to an appeal if they receive inadequate council”).

116. *See* KURZBAN, *supra* note 115, at 1834–35 (addressing the scope of BIA review, including limitations on *de novo* review of findings of fact); *id.* at 1899–1900, 1909–11 (discussing limitations of federal judicial review).

117. *Compare* WASH. REV. CODE § 19.154.060(1)–(2) (2022), *with* § 19.154.060(3).

118. REV. § 19.154.060(2)(g).

119. REV. § 19.154.060(2)(e).

120. REV. § 19.154.060(2)(b).

121. For example, a person is prohibited from representing in “any document letterhead, advertisement, stationery, business card, website, or other comparable written material” that they are

the statute by representing that “he or she can or is willing to provide services in an immigration matter, if such services would constitute the practice of law.”<sup>122</sup>

The statute expressly states that the act of language translation does not constitute the unauthorized practice of law.<sup>123</sup> Similar to language translation, Washington’s Practice of Law Board opined that a nonlawyer could “transcribe answers onto [immigration] forms” without violating this act.<sup>124</sup> But it went on to advise that “[t]he nonlawyer cannot select forms, explain the content of forms, or advise applicants on how to complete the forms.”<sup>125</sup>

This statute, and the Practice of Law Board’s related comments, suggest that any layperson’s help in completing an immigration form that is more substantive than simple transcription of objective data or language translation will rise to the level of a violation.

### *C. Federal Regulation of Immigration Law Practice*

Federal immigration regulations provide the third set of rules that limit who can assist another person with immigration-related matters. To protect the public from unqualified practitioners, regulations define “practice” as it relates to the practice of immigration law.<sup>126</sup> These regulations allow a layperson to complete a form with objective data under limited circumstances.<sup>127</sup> Immigration practice does not include “acts consisting solely of filling in blank spaces on printed forms with information provided by the applicant or petitioner. . . where such acts do not include the exercise of professional judgment to provide legal advice or legal services,” as long as the individual charges, at most, a nominal fee

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a “notario publico, notario, immigration assistant, immigration consultant, immigration specialist,” and from adopting any other title “that conveys or implies that he or she possesses professional legal skills in the area of immigration law” if the person is not authorized to provide legal advice in immigration matters. WASH. REV. CODE § 19.154.060(3)(a) (2022).

122. REV. § 19.154.060(3)(b).

123. REV. § 19.154.060(4)(b).

124. POLB correspondence, *supra* note 51, at 2.

125. *Id.*

126. 8 C.F.R. § 1001.1(i) (2022) (establishing that “[t]he term practice means exercising professional judgment to provide legal advice or legal services related to any matter before [the Executive Office of Immigration Review (EOIR)]” and that “[p]ractice includes, but is not limited to, determining available forms of relief from removal or protection; providing advice regarding legal strategies; drafting or filing any document on behalf of another person appearing before EOIR based on an analysis of applicable facts and law; or appearing on behalf of another person in any matter before EOIR”); *see also* 8 C.F.R. § 1.2 (2011) (defining practice as “the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with [the Department of Homeland Security (DHS)]”).

127. 8 C.F.R. § 1001.1(k).

and does not hold themselves out as “qualified in legal matters or in immigration.”<sup>128</sup>

Federal regulations go one step further and prohibit a licensed lawyer from helping another person to engage in the unauthorized practice of law.<sup>129</sup> The regulations governing professional conduct for immigration practitioners require “disciplinary sanctions in the public interest” for such lawyers.<sup>130</sup>

### III. APPLYING THE RULES: A LAYPERSON’S HELP WITH COMMUNITY SPONSORSHIP

A layperson who assists another in completing a financial sponsorship application form is engaged in the practice of law in Washington, regardless of whether the layperson charges a fee for doing so.<sup>131</sup> Uniting for Ukraine sponsorship forms affect the legal rights of the sponsor who is agreeing to assume financial responsibility for supporting Ukrainians. Consequently, Washington State Court General Rule 24 includes such assistance within its definition of the practice of law.<sup>132</sup> A layperson’s well-intended help could expose that layperson to criminal penalties under Washington law.<sup>133</sup>

If the layperson merely transcribes a potential sponsor’s objective information into a form, this service will unlikely be enjoined or sanctioned in Washington.<sup>134</sup> Similarly, providers who merely input objective data on a form for nominal or no remuneration are exempt from the federal regulation definition of immigration law practice.<sup>135</sup>

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128. *Id.* (defining “preparation” in contrast to “practice”). Immigration regulations do include a limited exception allowing a “reputable individual” to represent a noncitizen if the individual is a person “of good moral character” and is permitted by an immigration official to appear as a representative, among other criteria. 8 C.F.R. §§ 292.1(a)(3) (2011); 1292.1(a)(3) (2022).

129. Specifically, federal regulations state:

A practitioner who falls within one of the following categories shall be subject to disciplinary sanctions in the public interest if he or she:

....

Assists any person, other than a practitioner as defined in § 1003.101(b), in the performance of activity that constitutes the unauthorized practice of law. The practice of law before EOIR means engaging in practice or preparation as those terms are defined in §§ 1001.1(i) and (k).

8 C.F.R. § 1003.102(m) (2022).

130. 8 C.F.R. § 1003.102(s).

131. Wash. Gen. R. 24(a)(2).

132. *Id.*

133. “The following constitutes unlawful practice of law: A nonlawyer practices law, or holds himself or herself out as entitled to practice law . . . .” WASH. REV. CODE § 2.48.180(2)(a).

134. *See supra* notes 105 and 124 and accompanying text.

135. *See supra* notes 127–28 and accompanying text.

The line between transcribing a person's answers onto a form and commenting on the substance of the form's question or request for information is not a bright one. Imagine a layperson, for example, who tries to explain the meaning of "under penalty of perjury" as used in the certification part of a sponsorship application, to a potential sponsor for whom English is not their first language.<sup>136</sup> A nonlawyer helper who ascribes meaning to this phrase would likely be exposed to penalties for the unauthorized practice of law and the unauthorized practice of immigration law. Advising an applicant whether to list her house as an asset on the application form—the initial question of an acquaintance that prompted this Article—would clearly be the practice of law. Similarly, a sponsor applicant may seek a layperson's input on whether the applicant should declare an intention to provide specific contributions to the parole beneficiary.<sup>137</sup> The applicant can indicate, for example, an intent to furnish housing, or a regular monetary stipend. An applicant could reasonably question whether stating such an intent increases the chances that USCIS will approve the application.

It is unlikely that the Washington Supreme Court would consider this kind of substantive lay assistance with a form to be authorized under its balancing test. The risk to the public might be significant. Many who apply to sponsor eligible Ukrainians, Cubans, Haitians, Nicaraguans, and Venezuelans may be U.S. citizens and will thus only be at financial risk, rather than exposed to any immigration consequences. But immigrants in the United States with temporary status and those who are lawful permanent residents are also eligible to apply to financially sponsor individuals from these five countries. Accordingly, completing sponsorship forms does pose the risk of immigration consequences if the applicant intentionally commits fraud. A noncitizen could lose their immigrant status—or be barred from gaining a more permanent status—if convicted of or found to have committed fraud or willfully made a material misrepresentation on the sponsorship application form.<sup>138</sup>

It is even more unlikely that the court would authorize such substantive lay assistance considering the Practice of Law Board's (POL)

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136. *See supra* note 1.

137. USCIS I-134, *supra* note 56, at 8.

138. A lawful permanent resident can be placed in removal proceedings after a conviction of a "crime involving moral turpitude" depending on when it is committed and the possible sentence. 8 U.S.C. § 1227(a)(2)(A)(i). For immigrants in the United States with tenuous temporary status, such as parole, even the admission of facts constituting the elements of a crime involving moral turpitude (without a conviction) could render that person ineligible for more permanent status. *See* 8 U.S.C. § 1182(a)(2)(A)(i). While immigration statutes do not define "moral turpitude," offenses involving moral turpitude typically include fraud or perjury. *See* STATE DEP'T, STATE DEPARTMENT FOREIGN AFFAIRS MANUAL: DEFINING MORAL TURPITUDE 9 FAM 302.3-2(B)(2)(c)(1)–(2) (2021).

commentary on the Immigration Services Fraud Prevention Act. The POL Board expressly counselled that nonlawyers cannot “explain the content of [immigration] forms or advise applicants on how to complete the forms.”<sup>139</sup>

With no exception that authorizes this practice, a layperson’s assistance that goes beyond acting as a scrivener on a sponsorship application form would likely trigger a violation of Washington’s civil and criminal unauthorized practice rules. Such service would also likely violate the Immigration Services Fraud Prevention Act, even if the layperson does not seek compensation.<sup>140</sup> By lending assistance with completing the form, the layperson likely represented that they are willing to provide immigration related services that constitute the practice of law, violating the Immigration Services Fraud Prevention Act.<sup>141</sup> The Washington Supreme Court determined that “The representation of qualification and competence to do work of a legal nature . . . is implicit in the preparation of any legal document by the selection and completion of a blank form.”<sup>142</sup>

There is also a risk for licensed attorneys who practice immigration law. Imagine a layperson seeks to help a sponsor complete an application. But the layperson is not certain whether an appraisal is required before the sponsor’s house can be listed as an asset. The layperson asks the immigration lawyer. If an immigration lawyer who is not familiar with this unusual rule provides a response, they could be subject to EOIR disciplinary sanctions for helping the layperson engage in the unauthorized practice of law.<sup>143</sup>

#### CONCLUSION

Well-intended laypeople trying to support victims of war and political strife are at risk of violating Washington’s unauthorized practice of law rules when they try to help another person apply to sponsor parolees. Such assistance likely also violates federal regulations, limiting a layperson’s help with immigration forms to language interpretation or transcription of objective data.

The risk of nonlawyers in Washington running afoul of rules regulating the practice of law is growing with expanded community sponsorship programs. In less than nine months, the Administration extended community-based financial sponsorship from its roots in

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139. POLB Correspondence, *supra* note 51, at 2.

140. See WASH. REV. CODE § 19.154.060(3)(b) (2022).

141. See *id.*

142. Wash. State Bar Ass’n v. Wash. Ass’n of Realtors, 251 P.2d 619, 621 (1952).

143. See *supra* note 129 and accompanying text.

assisting Ukrainians, to supporting individuals fleeing from Venezuela, Cuba, Haiti, and Nicaragua. Broadening community-sponsored parole means that more private individuals will apply to support immigrants escaping conflict, violence, and other calamities, which puts additional well-meaning lay people at risk, as well as the sponsors they try to assist.

While this Article focuses on Washington's practice of law rules, the risks to potential community sponsors and the laypeople who attempt to help them, are nationwide. Accordingly, amelioration of these risks should not be left solely to those who regulate the practice of law in Washington.

Federal authorities should ensure that potential sponsors have access to qualified help in completing applications. Minimally, USCIS must allow attorneys the ability to access the online Form I-134A sponsorship application to more easily help clients wishing to sponsor newcomers. Federal authorities could also augment funding for refugee resettlement organizations' legal departments in order to assist potential financial sponsors. A national hotline for potential sponsors might also be useful.

Actors in Washington state can also help to decrease the risks highlighted in this Article. The Washington Supreme Court, for example, could consider creating a legal regulatory sandbox to allow nonlawyers to assist sponsors while collecting data about the impact of such assistance.<sup>144</sup> In the meantime, licensed lawyers can help by learning of these new programs and offering pro bono or low bono assistance to sponsor applicants.<sup>145</sup> Similarly, the state's law school immigration clinics can provide information and application assistance to prospective financial sponsors.

Involving "everyday Americans" in welcoming newcomers to the United States has much appeal.<sup>146</sup> But the financial sponsors ultimately responsible for ensuring hospitality must have access to sufficient qualified support.

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144. For more information on legal regulatory sandboxes, see generally Noel Brady, *Legal Regulatory Sandbox Could Incubate Innovation in Washington*, NWSIDEBAR (July 13, 2021), <https://nwsidebar.wsba.org/2021/07/13/legal-regulatory-sandbox-could-incubate-innovation-in-washington/> [https://perma.cc/2XLF-B775].

145. *Low Bono Section*, WASH. STATE BAR ASS'N, <https://www.wsba.org/legal-community/sections/low-bono-section> [https://perma.cc/6929-K6BY].

146. *Launch of the Welcome Corps*, *supra* note 16 (commenting that Welcome Corps provides an opportunity for "everyday Americans" to engage in refugee resettlement); *see also supra* note 4 (identifying support for community-based parole sponsorship programs).