

1 Rule 5.5. ~~Unauthorized practice of law.~~ Unauthorized Practice of Law;  
2 Multijurisdictional Practice of Law.

3 A lawyer shall not:

4 (a) ~~Practice law in a jurisdiction where doing so violates the regulation of the legal~~  
5 ~~profession in that jurisdiction; or~~

6 (b) ~~Assist any person in the performance of activity that constitutes the unauthorized~~  
7 ~~practice of law.~~

8 COMMENT

9 The definition of the practice of law is established by law and varies from one  
10 jurisdiction to another. Whatever the definition, limiting the practice of law to members of  
11 the Bar protects the public against rendition of legal services by unqualified persons.  
12 Paragraph (b) does not prohibit a lawyer from employing the services of  
13 paraprofessionals and delegating functions to them, so long as the lawyer supervises  
14 the delegated work and retains responsibility for their work. See Rule 5.3. Likewise, it  
15 does not prohibit lawyers from providing professional advice and instruction to  
16 nonlawyers whose employment requires knowledge of law; for example, claims  
17 adjusters, employees of financial or commercial institutions, social workers, accountants  
18 and persons employed in government agencies. In addition, a lawyer may counsel  
19 nonlawyers who wish to proceed pro se.

20 (a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the  
21 legal profession in that jurisdiction, or assist another in doing so.

22 (b) A lawyer who is not admitted to practice in this jurisdiction shall not:

23 (b)(1) except as authorized by these Rules or other law, establish an office or other  
24 systematic and continuous presence in this jurisdiction for the practice of law; or

25 (b)(2) hold out to the public or otherwise represent that the lawyer is admitted to  
26 practice law in this jurisdiction.

27 (c) A lawyer admitted in another United States jurisdiction, and not disbarred or  
28 suspended from practice in any jurisdiction, may provide legal services on a temporary  
29 basis in this jurisdiction that:

30 (c)(1) are undertaken in association with a lawyer who is admitted to practice in this  
31 jurisdiction and who actively participates in the matter;

32 (c)(2) are in or reasonably related to a pending or potential proceeding before a  
33 tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is  
34 authorized by law or order to appear in such proceeding or reasonably expects to be so  
35 authorized;

36 (c)(3) are in or reasonably related to a pending or potential arbitration, mediation or  
37 other alternative dispute resolution proceeding in this or another jurisdiction, if the  
38 services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in  
39 which the lawyer is admitted to practice and are not services for which the forum  
40 requires pro hac vice admission; or

41 (c)(4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably  
42 related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to  
43 practice.

44 (d) A lawyer admitted in another United States jurisdiction and not disbarred or  
45 suspended from practice in any jurisdiction may provide legal services in this jurisdiction  
46 that:

47 (d)(1) are provided to the lawyer's employer or its organizational affiliates and are  
48 not services for which the forum requires pro hac vice admission; or

49 (d)(2) are services that the lawyer is authorized to provide by federal law or other  
50 law of this jurisdiction.

51 Comment

52 [1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized  
53 to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis  
54 or may be authorized by court rule or order or by law to practice for a limited purpose or  
55 on a restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer,  
56 whether through the lawyer's direct action or by the lawyer's assisting another person.

57 [2] The definition of the practice of law is established by law and varies from one  
58 jurisdiction to another. The "practice of law" in Utah is defined in Chapter 13A, Rule 1.0,  
59 Authorization to Practice Law, of the Supreme Court Rules of Professional Practice.  
60 This Rule does not prohibit a lawyer from employing the services of paraprofessionals  
61 and delegating functions to them, so long as the lawyer supervises the delegated work  
62 and retains responsibility for their work. See Rule 5.3.

63 [3] A lawyer may provide professional advice and instruction to nonlawyers whose  
64 employment requires knowledge of the law; for example, claims adjusters, employees of  
65 financial or commercial institutions, social workers, accountants and persons employed  
66 in government agencies. Lawyers also may assist independent nonlawyers, such as  
67 paraprofessionals, who are authorized by the law of a jurisdiction to provide particular  
68 law-related services. In addition, a lawyer may counsel nonlawyers who wish to  
69 proceed pro se.

70 [4] Other than as authorized by law or this Rule, a lawyer who is not admitted to  
71 practice generally in this jurisdiction violates paragraph (b) if the lawyer establishes an  
72 office or other systematic and continuous presence in this jurisdiction for the practice of  
73 law. Presence may be systematic and continuous even if the lawyer is not physically  
74 present here. Such a lawyer must not hold out to the public or otherwise represent that  
75 the lawyer is admitted to practice law in this jurisdiction. See also Rules 7.1(a) and  
76 7.5(b).

77 [5] There are occasions in which a lawyer admitted to practice in another United  
78 States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may  
79 provide legal services on a temporary basis in this jurisdiction under circumstances that  
80 do not create an unreasonable risk to the interests of their clients, the public or the  
81 courts. Paragraph (c) identifies four such circumstances. The fact that conduct is not  
82 so identified does not imply that the conduct is or is not authorized. With the exception  
83 of paragraphs (d)(1) and (d)(2), this Rule does not authorize a lawyer to establish an  
84 office or other systematic and continuous presence in this jurisdiction without being  
85 admitted to practice generally here.

86 [6] There is no single test to determine whether a lawyer's services are provided on  
87 a "temporary basis" in this jurisdiction and may therefore be permissible under  
88 paragraph (c). Services may be "temporary" even though the lawyer provides services  
89 in this jurisdiction on a recurring basis, or for an extended period of time, as when the  
90 lawyer is representing a client in a single lengthy negotiation or litigation.

91 [7] Paragraphs (c) and (d) apply to lawyers who are admitted to practice law in any  
92 United States jurisdiction, which includes the District of Columbia and any state, territory  
93 or commonwealth of the United States. The word "admitted" in paragraph (c)

94 contemplates that the lawyer is authorized to practice in the jurisdiction in which the  
95 lawyer is admitted and excludes a lawyer who while technically admitted is not  
96 authorized to practice, because, for example, the lawyer is on inactive status.

97 [8] Paragraph (c)(1) recognizes that the interests of clients and the public are  
98 protected if a lawyer admitted only in another jurisdiction associates with a lawyer  
99 licensed to practice in this jurisdiction. For this paragraph to apply, however, the lawyer  
100 admitted to practice in this jurisdiction must actively participate in and share  
101 responsibility for the representation of the client.

102 [9] Lawyers not admitted to practice generally in a jurisdiction may be authorized by  
103 law or order of a tribunal or an administrative agency to appear before the tribunal or  
104 agency. This authority may be granted pursuant to formal rules governing admission  
105 pro hac vice or pursuant to informal practice of the tribunal or agency. Under paragraph  
106 (c)(2), a lawyer does not violate this Rule when the lawyer appears before a tribunal or  
107 agency pursuant to such authority. To the extent that a court rule or other law of this  
108 jurisdiction requires a lawyer who is not admitted to practice in this jurisdiction to obtain  
109 admission pro hac vice before appearing before a tribunal or administrative agency, this  
110 Rule requires the lawyer to obtain that authority.

111 [10] Paragraph (c)(2) also provides that a lawyer rendering services in this  
112 jurisdiction on a temporary basis does not violate this Rule when the lawyer engages in  
113 conduct in anticipation of a proceeding or hearing in a jurisdiction in which the lawyer is  
114 authorized to practice law or in which the lawyer reasonably expects to be admitted pro  
115 hac vice. Examples of such conduct include meetings with the client, interviews of  
116 potential witnesses and the review of documents. Similarly, a lawyer admitted only in  
117 another jurisdiction may engage in conduct temporarily in this jurisdiction in connection  
118 with pending litigation in another jurisdiction in which the lawyer is or reasonably  
119 expects to be authorized to appear, including taking depositions in this jurisdiction.

120 [11] When a lawyer has been or reasonably expects to be admitted to appear  
121 before a court or administrative agency, paragraph (c)(2) also permits conduct by  
122 lawyers who are associated with that lawyer in the matter, but who do not expect to  
123 appear before the court or administrative agency. For example, subordinate lawyers

124 may conduct research, review documents and attend meetings with witnesses in  
125 support of the lawyer responsible for the litigation.

126 [12] Paragraph (c)(3) permits a lawyer admitted to practice law in another  
127 jurisdiction to perform services on a temporary basis in this jurisdiction if those services  
128 are in or reasonably related to a pending or potential arbitration, mediation or other  
129 alternative dispute resolution proceeding in this or another jurisdiction, if the services  
130 arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which  
131 the lawyer is admitted to practice. The lawyer, however, must obtain admission pro hac  
132 vice in the case of a court-annexed arbitration or mediation or otherwise if court rules or  
133 law so require.

134 [13] Paragraph (c)(4) permits a lawyer admitted in another jurisdiction to provide  
135 certain legal services on a temporary basis in this jurisdiction that arise out of or are  
136 reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is  
137 admitted but are not within paragraphs (c)(2) or (c)(3).

138 [14] Paragraphs (c)(3) and (c)(4) require that the services arise out of or be  
139 reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is  
140 admitted. A variety of factors evidence such a relationship. The lawyer's client may  
141 have been previously represented by the lawyer or may be resident in or have  
142 substantial contacts with the jurisdiction in which the lawyer is admitted. The matter,  
143 although involving other jurisdictions, may have a significant connection with that  
144 jurisdiction. In other cases, significant aspects of the lawyer's work might be conducted  
145 in that jurisdiction or a significant aspect of the matter may involve the law of that  
146 jurisdiction. The necessary relationship might arise when the client's activities or the  
147 legal issues involve multiple jurisdictions, such as when the officers of a multinational  
148 corporation survey potential business sites and seek the services of their lawyer in  
149 assessing the relative merits of each. In addition, the services may draw on the  
150 lawyer's recognized expertise developed through the regular practice of law on behalf of  
151 clients in matters involving a particular body of federal, nationally-uniform, foreign or  
152 international law.

153 [15] Paragraph (d) identifies two circumstances in which a lawyer who is admitted to  
154 practice in another United States jurisdiction, and is not disbarred or suspended from

155 practice in any jurisdiction, may establish an office or other systematic and continuous  
156 presence in this jurisdiction for the practice of law as well as provide legal services on a  
157 temporary basis. Except as provided in paragraphs (d)(1) and (d)(2), a lawyer who is  
158 admitted to practice law in another jurisdiction and who establishes an office or other  
159 systematic or continuous presence in this jurisdiction must become admitted to practice  
160 law generally in this jurisdiction.

161 [16] Paragraph (d)(1) applies to a lawyer who is employed by a client to provide  
162 legal services to the client or its organizational affiliates, i.e., entities that control, are  
163 controlled by or are under common control with the employer. This paragraph does not  
164 authorize the provision of personal legal services to the employer's officers or  
165 employees. The paragraph applies to in-house corporate lawyers, government lawyers  
166 and others who are employed to render legal services to the employer. The lawyer's  
167 ability to represent the employer outside the jurisdiction in which the lawyer is licensed  
168 generally serves the interests of the employer and does not create an unreasonable risk  
169 to the client and others because the employer is well situated to assess the lawyer's  
170 qualifications and the quality of the lawyer's work.

171 [17] If an employed lawyer establishes an office or other systematic presence in this  
172 jurisdiction for the purpose of rendering legal services to the employer, the lawyer may  
173 be subject to registration or other requirements, including assessments for client  
174 protection funds and mandatory continuing legal education.

175 [18] Paragraph (d)(2) recognizes that a lawyer may provide legal services in a  
176 jurisdiction in which the lawyer is not licensed when authorized to do so by federal or  
177 other law, which includes statute, court rule, executive regulation or judicial precedent.

178 [19] A lawyer who practices law in this jurisdiction pursuant to paragraphs (c) or (d)  
179 or otherwise is subject to the disciplinary authority of this jurisdiction. See Rule 8.5(a).

180 [20] In some circumstances, a lawyer who practices law in this jurisdiction pursuant  
181 to paragraphs (c) or (d) may have to inform the client that the lawyer is not licensed to  
182 practice law in this jurisdiction. For example, that may be required when the  
183 representation occurs primarily in this jurisdiction and requires knowledge of the law of  
184 this jurisdiction. See Rule 1.4(b).

185 [21] Paragraphs (c) and (d) do not authorize communications advertising legal  
186 services to prospective clients in this jurisdiction by lawyers who are admitted to  
187 practice in other jurisdictions. Whether and how lawyers may communicate the  
188 availability of their services to prospective clients in this jurisdiction are governed by  
189 Rules 7.1 to 7.5.

190 [21a] Utah Rule 5.5 differs from the ABA Model Rule 5.5 in Comment [2], where the  
191 second sentence has been modified to reflect and be consistent with Chapter 13A, Rule  
192 1.0, Authorization to Practice Law, or the Supreme Court Rules of Professional Practice,  
193 which both defines the “practice of law” and expressly authorizes nonlawyers to engage  
194 in some aspects of the practice of law as long as their activities are confined to the  
195 categories of services specified in that rule. Similarly, the last sentence in ABA Model  
196 Rule 5.5 Comment [13] has been omitted to comport with Utah’s definition of the  
197 “practice of law”.

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