

1 **Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law.**

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

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

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

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

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

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

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

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

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

22 (d) A lawyer admitted in another United States jurisdiction and not disbarred or suspended from
23 practice in any jurisdiction may provide legal services through an office or other systematic and
24 continuous presence in this jurisdiction that:

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

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

29 **Comment**

30 [1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A
31 lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court
32 rule or order or by law to practice for a limited purpose or on a restricted basis. Paragraph (a) applies to
33 unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer's
34 assisting another person. For example, a lawyer may not assist a person in practicing law in violation of
35 the rules governing professional conduct in that person's jurisdiction.

36 [2] The definition of the practice of law is established by law and varies from one jurisdiction to
37 another. The "practice of law" in Utah is defined in ~~Chapter 13A, Rule 1-0~~ Rule 14-802(b)(1),

38 Authorization to Practice Law, of the Supreme Court Rules of Professional Practice. This Rule does not
39 prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so
40 long as the lawyer supervises the delegated work and retains responsibility for their work. See Rule 5.3.

41 [3] A lawyer may provide professional advice and instruction to nonlawyers whose employment
42 requires knowledge of the law; for example, claims adjusters, employees of financial or commercial
43 institutions, social workers, accountants and persons employed in government agencies. Lawyers also
44 may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a
45 jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who
46 wish to proceed pro se.

47 [4] Other than as authorized by law or this Rule, a lawyer who is not admitted to practice generally in
48 this jurisdiction violates paragraph (b)(1) if the lawyer establishes an office or other systematic and
49 continuous presence in this jurisdiction for the practice of law. Presence may be systematic and
50 continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public
51 or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. See also Rules 7.1(a)
52 and 7.5(b).

53 [5] There are occasions in which a lawyer admitted to practice in another United States jurisdiction,
54 and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a
55 temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the
56 interests of their clients, the public or the courts. Paragraph (c) identifies four such circumstances. The
57 fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the
58 exception of paragraphs (d)(1) and (d)(2), this Rule does not authorize a lawyer to establish an office or
59 other systematic and continuous presence in this jurisdiction without being admitted to practice generally
60 here.

61 [6] There is no single test to determine whether a lawyer's services are provided on a "temporary
62 basis" in this jurisdiction and may therefore be permissible under paragraph (c). Services may be
63 "temporary" even though the lawyer provides services in this jurisdiction on a recurring basis, or for an
64 extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or
65 litigation.

66 [7] Paragraphs (c) and (d) apply to lawyers who are admitted to practice law in any United States
67 jurisdiction, which includes the District of Columbia and any state, territory or commonwealth of the United
68 States. The word "admitted" in ~~paragraph~~ paragraphs (c) and (d) contemplates that the lawyer is
69 authorized to practice in the jurisdiction in which the lawyer is admitted and excludes a lawyer who while
70 technically admitted is not authorized to practice, because, for example, the lawyer is on inactive status.

71 [8] Paragraph (c)(1) recognizes that the interests of clients and the public are protected if a lawyer
72 admitted only in another jurisdiction associates with a lawyer licensed to practice in this jurisdiction. For
73 this paragraph to apply, however, the lawyer admitted to practice in this jurisdiction must actively
74 participate in and share responsibility for the representation of the client.

75 [9] Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a
76 tribunal or an administrative agency to appear before the tribunal or agency. This authority may be
77 granted pursuant to formal rules governing admission pro hac vice or pursuant to informal practice of the
78 tribunal or agency. Under paragraph (c)(2), a lawyer does not violate this Rule when the lawyer appears
79 before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this
80 jurisdiction requires a lawyer who is not admitted to practice in this jurisdiction to obtain admission pro
81 hac vice before appearing before a tribunal or administrative agency, this Rule requires the lawyer to
82 obtain that authority.

83 [10] Paragraph (c)(2) also provides that a lawyer rendering services in this jurisdiction on a temporary
84 basis does not violate this Rule when the lawyer engages in conduct in anticipation of a proceeding or
85 hearing in a jurisdiction in which the lawyer is authorized to practice law or in which the lawyer reasonably
86 expects to be admitted pro hac vice. Examples of such conduct include meetings with the client,
87 interviews of potential witnesses and the review of documents. Similarly, a lawyer admitted only in
88 another jurisdiction may engage in conduct temporarily in this jurisdiction in connection with pending
89 litigation in another jurisdiction in which the lawyer is or reasonably expects to be authorized to appear,
90 including taking depositions in this jurisdiction.

91 [11] When a lawyer has been or reasonably expects to be admitted to appear before a court or
92 administrative agency, paragraph (c)(2) also permits conduct by lawyers who are associated with that
93 lawyer in the matter, but who do not expect to appear before the court or administrative agency. For
94 example, subordinate lawyers may conduct research, review documents and attend meetings with
95 witnesses in support of the lawyer responsible for the litigation.

96 [12] Paragraph (c)(3) permits a lawyer admitted to practice law in another jurisdiction to perform
97 services on a temporary basis in this jurisdiction if those services are in or reasonably related to a
98 pending or potential arbitration, mediation or other alternative dispute resolution proceeding in this or
99 another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a
100 jurisdiction in which the lawyer is admitted to practice. The lawyer, however, must obtain admission pro
101 hac vice in the case of a court-annexed arbitration or mediation or otherwise if court rules or law so
102 require.

103 [13] Paragraph (c)(4) permits a lawyer admitted in another jurisdiction to provide certain legal services
104 on a temporary basis in this jurisdiction that arise out of or are reasonably related to the lawyer's practice
105 in a jurisdiction in which the lawyer is admitted but are not within paragraphs (c)(2) or (c)(3).

106 [14] Paragraphs (c)(3) and (c)(4) require that the services arise out of or be reasonably related to the
107 lawyer's practice in a jurisdiction in which the lawyer is admitted. A variety of factors evidence such a
108 relationship. The lawyer's client may have been previously represented by the lawyer or may be resident
109 in or have substantial contacts with the jurisdiction in which the lawyer is admitted. The matter, although
110 involving other jurisdictions, may have a significant connection with that jurisdiction. In other cases,
111 significant aspects of the lawyer's work might be conducted in that jurisdiction or a significant aspect of

112 the matter may involve the law of that jurisdiction. The necessary relationship might arise when the
113 client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a
114 multinational corporation survey potential business sites and seek the services of their lawyer in
115 assessing the relative merits of each. In addition, the services may draw on the lawyer's recognized
116 expertise developed through the regular practice of law on behalf of clients in matters involving a
117 particular body of federal, nationally-uniform, foreign or international law.

118 [15] Paragraph (d) identifies two circumstances in which a lawyer who is admitted to practice in
119 another United States jurisdiction, and is not disbarred or suspended from practice in any jurisdiction,
120 may establish an office or other systematic and continuous presence in this jurisdiction for the practice of
121 law as well as provide legal services on a temporary basis. Except as provided in paragraphs (d)(1) and
122 (d)(2), a lawyer who is admitted to practice law in another jurisdiction and who establishes an office or
123 other systematic or continuous presence in this jurisdiction must become admitted to practice law
124 generally in this jurisdiction.

125 [16] Paragraph (d)(1) applies to a lawyer who is employed by a client to provide legal services to the
126 client or its organizational affiliates, i.e., entities that control, are controlled by or are under common
127 control with the employer. This paragraph does not authorize the provision of personal legal services to
128 the employer's officers or employees. The paragraph applies to in-house corporate lawyers, government
129 lawyers and others who are employed to render legal services to the employer. The lawyer's ability to
130 represent the employer outside the jurisdiction in which the lawyer is licensed generally serves the
131 interests of the employer and does not create an unreasonable risk to the client and others because the
132 employer is well situated to assess the lawyer's qualifications and the quality of the lawyer's work.

133 [17] If an employed lawyer establishes an office or other systematic presence in this jurisdiction for
134 the purpose of rendering legal services to the employer, the lawyer may be subject to registration or other
135 requirements, including assessments for client protection funds and mandatory continuing legal
136 education. See Rule 14-718 of the Supreme Court Rules of Professional Practice, *Licensing of Foreign*
137 *Legal Consultants*, and 14-719 of the Supreme Court Rules of Professional Practice, *Qualifications for*
138 *Admission of House Counsel Applicants*.

139 [18] Paragraph (d)(2) recognizes that a lawyer may provide legal services in a jurisdiction in which the
140 lawyer is not licensed when authorized to do so by federal or other law, which includes statute, court rule,
141 executive regulation or judicial precedent. See, e.g., Rule 14-804 of the Supreme Court Rules of
142 *Professional Practice, Special Admission Exception for Military Lawyers*.

143 [19] A lawyer who practices law in this jurisdiction pursuant to paragraphs (c) or (d) or otherwise is
144 subject to the disciplinary authority of this jurisdiction. See Rule 8.5(a).

145 [20] In some circumstances, a lawyer who practices law in this jurisdiction pursuant to paragraphs (c)
146 or (d) may have to inform the client that the lawyer is not licensed to practice law in this jurisdiction. For
147 example, that may be required when the representation occurs primarily in this jurisdiction and requires
148 knowledge of the law of this jurisdiction. See Rule 1.4(b).

149 [21] Paragraphs (c) and (d) do not authorize communications advertising legal services to prospective
150 clients in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how
151 lawyers may communicate the availability of their services to prospective clients in this jurisdiction are
152 governed by Rules 7.1 to 7.5.

153 [21a] Utah Rule 5.5 differs from the ABA Model Rule 5.5 in Comment [2], where the second sentence
154 has been modified to reflect and be consistent with ~~Chapter 13A, Rule 14-802(b)(1-0)~~, Authorization to
155 Practice Law, ~~or of~~ the Supreme Court Rules of Professional Practice, which both defines the "practice of
156 law" and expressly authorizes nonlawyers to engage in some aspects of the practice of law as long as
157 their activities are confined to the categories of services specified in that rule. Similarly, the last sentence
158 in ABA Model Rule 5.5 Comment [13] has been omitted to comport with Utah's definition of the "practice
159 of law". Utah's Rule also differs from the ABA Model Rule 5.5 in that Utah has not adopted the ABA's
160 provisions dealing with foreign lawyers. Utah has its own Rule 14-718 of the Supreme Court Rules of
161 Professional Practice, *Licensing of Foreign Legal Consultants*, covering this matter.