

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

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

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

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

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

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

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

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

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

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

(d) A lawyer admitted in another United States jurisdiction and not disbarred or suspended from practice in any jurisdiction may provide legal services through an office or other systematic and continuous presence in this jurisdiction without admission to the Utah State Bar if that:

(d)(1) the services are provided to the lawyer's employer or its organizational affiliates while the lawyer has a pending application for admission to the Utah State Bar and are not services for which the forum requires pro hac vice admission; or

(d)(2) the services provided are ~~are services that the lawyer is~~ authorized ~~to provide~~ by specific federal or Utah law or by applicable rule, law or other law or rule of this jurisdiction.

Comment

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

37 [2] The definition of the practice of law is established by law and varies from one jurisdiction to
38 another. The "practice of law" in Utah is defined in ~~Chapter 13A, Rule 1.0~~ [Rule 14-802\(b\)\(1\)](#),
39 Authorization to Practice Law, of the Supreme Court Rules of Professional Practice. This Rule does not
40 prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so
41 long as the lawyer supervises the delegated work and retains responsibility for their work. See Rule 5.3.

42 [\[2a\] The Utah rule modifies the second sentence of ABA Comment \[2\] to reflect and be consistent](#)
43 [with Rule 14-802\(b\)\(1\), Authorization to Practice Law, of the Supreme Court Rules of Professional](#)
44 [Practice, which both defines the "practice of law" and expressly authorizes nonlawyers to engage in some](#)
45 [aspects of the practice of law as long as their activities are confined to the categories of services](#)
46 [specified in that rule.](#)

47 [3] A lawyer may provide professional advice and instruction to nonlawyers whose employment
48 requires knowledge of the law; for example, claims adjusters, employees of financial or commercial
49 institutions, social workers, accountants and persons employed in government agencies. Lawyers also
50 may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a
51 jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who
52 wish to proceed pro se.

53 [4] Other than as authorized by law or this Rule, a lawyer who is not admitted to practice generally in
54 this jurisdiction violates paragraph (b)(1) if the lawyer establishes an office or other systematic and
55 continuous presence in this jurisdiction for the practice of law. Presence may be systematic and
56 continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public
57 or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. See also Rules 7.1(a)
58 and 7.5(b).

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

67 [6] There is no single test to determine whether a lawyer's services are provided on a "temporary
68 basis" in this jurisdiction and may therefore be permissible under paragraph (c). Services may be
69 "temporary" even though the lawyer provides services in this jurisdiction on a recurring basis, or for an
70 extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or
71 litigation.

72 [7] Paragraphs (c) and (d) apply to lawyers who are admitted to practice law in any United States
73 jurisdiction, which includes the District of Columbia and any state, territory or commonwealth of the United

74 | States. The word "admitted" in ~~paragraph~~paragraphs (c) and (d) contemplates that the lawyer is
75 | authorized to practice in the jurisdiction in which the lawyer is admitted and excludes a lawyer who while
76 | technically admitted is not authorized to practice, because, for example, the lawyer is on inactive status.

77 | [8] Paragraph (c)(1) recognizes that the interests of clients and the public are protected if a lawyer
78 | admitted only in another jurisdiction associates with a lawyer licensed to practice in this jurisdiction. For
79 | this paragraph to apply, however, the lawyer admitted to practice in this jurisdiction must actively
80 | participate in and share responsibility for the representation of the client.

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

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

97 | [11] When a lawyer has been or reasonably expects to be admitted to appear before a court or
98 | administrative agency, paragraph (c)(2) also permits conduct by lawyers who are associated with that
99 | lawyer in the matter, but who do not expect to appear before the court or administrative agency. For
100 | example, subordinate lawyers may conduct research, review documents and attend meetings with
101 | witnesses in support of the lawyer responsible for the litigation.

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

109 [13] Paragraph (c)(4) permits a lawyer admitted in another jurisdiction to provide certain legal services
110 on a temporary basis in this jurisdiction that arise out of or are reasonably related to the lawyer's practice
111 in a jurisdiction in which the lawyer is admitted but are not within paragraphs (c)(2) or (c)(3).

112 [\[13a\] The last sentence in Comment \[13\] to ABA Model Rule 5.5 has been omitted to comport with](#)
113 [Utah's definition of the "practice of law" in Rule 14-802\(b\)\(1\).](#)

114 [14] Paragraphs (c)(3) and (c)(4) require that the services arise out of or be reasonably related to the
115 lawyer's practice in a jurisdiction in which the lawyer is admitted. A variety of factors evidence such a
116 relationship. The lawyer's client may have been previously represented by the lawyer or may be resident
117 in or have substantial contacts with the jurisdiction in which the lawyer is admitted. The matter, although
118 involving other jurisdictions, may have a significant connection with that jurisdiction. In other cases,
119 significant aspects of the lawyer's work might be conducted in that jurisdiction or a significant aspect of
120 the matter may involve the law of that jurisdiction. The necessary relationship might arise when the
121 client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a
122 multinational corporation survey potential business sites and seek the services of their lawyer in
123 assessing the relative merits of each. In addition, the services may draw on the lawyer's recognized
124 expertise developed through the regular practice of law on behalf of clients in matters involving a
125 particular body of federal, nationally-uniform, foreign or international law.

126 [15] Paragraph (d) identifies two circumstances in which a lawyer who is admitted to practice in
127 another United States jurisdiction, and is not disbarred or suspended from practice in any jurisdiction,
128 may establish an office or other systematic and continuous presence in this jurisdiction for the practice of
129 law as well as provide legal services on a temporary basis. Except as provided in paragraphs (d)(1) and
130 (d)(2), a lawyer who is admitted to practice law in another jurisdiction and who establishes an office or
131 other systematic or continuous presence in this jurisdiction must become admitted to practice law
132 generally in this jurisdiction.

133 [\[15a\] Utah's Rule 5.5\(d\) differs from the ABA Model Rule by requiring a person providing services to](#)
134 [the lawyer's employer to have submitted an application for admission to the Bar, such as an application](#)
135 [for admission of attorney applicants under Supreme Court Rules of Professional Practice, Rule 14-704;](#)
136 [admission by motion under Rule 14-705; or admission as House Counsel under Rule 14-719.](#)

137 [\[15b\] Utah Rule 5.5 does not adopt the ABA's provisions dealing with foreign lawyers, as other rules](#)
138 [in Article 7 of the Rules Governing the Utah State Bar cover this matter.](#)

139 [16] Paragraph (d)(1) applies to a lawyer who is employed by a client to provide legal services to the
140 client or its organizational affiliates, i.e., entities that control, are controlled by or are under common
141 control with the employer. This paragraph does not authorize the provision of personal legal services to
142 the employer's officers or employees. The paragraph applies to in-house corporate lawyers, government
143 lawyers and others who are employed to render legal services to the employer. The lawyer's ability to
144 represent the employer outside the jurisdiction in which the lawyer is licensed generally serves the

145 interests of the employer and does not create an unreasonable risk to the client and others because the
146 employer is well situated to assess the lawyer's qualifications and the quality of the lawyer's work.

147 [17] If an employed lawyer establishes an office or other systematic presence in this jurisdiction for
148 the purpose of rendering legal services to the employer under paragraph (d)(1), the lawyer ~~may be~~
149 subject to Utah admission and licensing registration or other requirements, including assessments for
150 annual licensing fees and client protection funds, and mandatory continuing legal education.

151 [18] Paragraph (d)(2) recognizes that a lawyer may provide legal services in a jurisdiction in which
152 the lawyer is not licensed when authorized ~~to do so by~~ federal or other law, which includes statute, court
153 rule, executive regulation or judicial precedent.

154 [18a] The Utah version of Paragraph (d)(2) clarifies that a lawyer not admitted to practice in Utah
155 may provide legal services under that paragraph only if the lawyer can cite specific federal or state law or
156 an applicable rule that authorizes the services. See, e.g., Rule DUCivR 83-1.1, Rules of Practice of the
157 United States District Court of the District of Utah; Rule 14-804 of the Supreme Court Rules of
158 Professional Practice, admission for military-lawyer practice; Rule 14-719(d)(2), which provides a six-
159 month period during which an in-house counsel is authorized to practice before submitting a House
160 Counsel application; practice as a patent attorney before the United States Patent and Trademark Office.

161 [19] A lawyer who practices law in this jurisdiction pursuant to paragraphs (c) or (d) or otherwise is
162 subject to the disciplinary authority of this jurisdiction. See Rule 8.5(a).

163 [20] In some circumstances, a lawyer who practices law in this jurisdiction pursuant to paragraphs (c)
164 or (d) may have to inform the client that the lawyer is not licensed to practice law in this jurisdiction. For
165 example, that may be required when the representation occurs primarily in this jurisdiction and requires
166 knowledge of the law of this jurisdiction. See Rule 1.4(b).

167 [21] Paragraphs (c) and (d) do not authorize communications advertising legal services ~~to prospective~~
168 ~~clients~~ in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how
169 lawyers may communicate the availability of their services ~~to prospective clients~~ in this jurisdiction are
170 governed by Rules 7.1 to 7.5.

171 [21a] Utah Rule 5.5 differs from the ABA Model Rule 5.5 in Comment [2], where the second sentence
172 has been modified to reflect and be consistent with Chapter 13A, Rule 14-802(b)(1.0), Authorization to
173 Practice Law, or of the Supreme Court Rules of Professional Practice, which both defines the "practice of
174 law" and expressly authorizes nonlawyers to engage in some aspects of the practice of law as long as
175 their activities are confined to the categories of services specified in that rule. Similarly, the last sentence
176 in ABA Model Rule 5.5 Comment [13] has been omitted to comport with Utah's definition of the "practice
177 of law". Utah's Rule also differs from the ABA Model Rule 5.5 in that Utah has not adopted the ABA's
178 provisions dealing with foreign lawyers. Utah has its own Rule 14-718 of the Supreme Court Rules of
179 Professional Practice, Licensing of Foreign Legal Consultants, covering this matter.

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