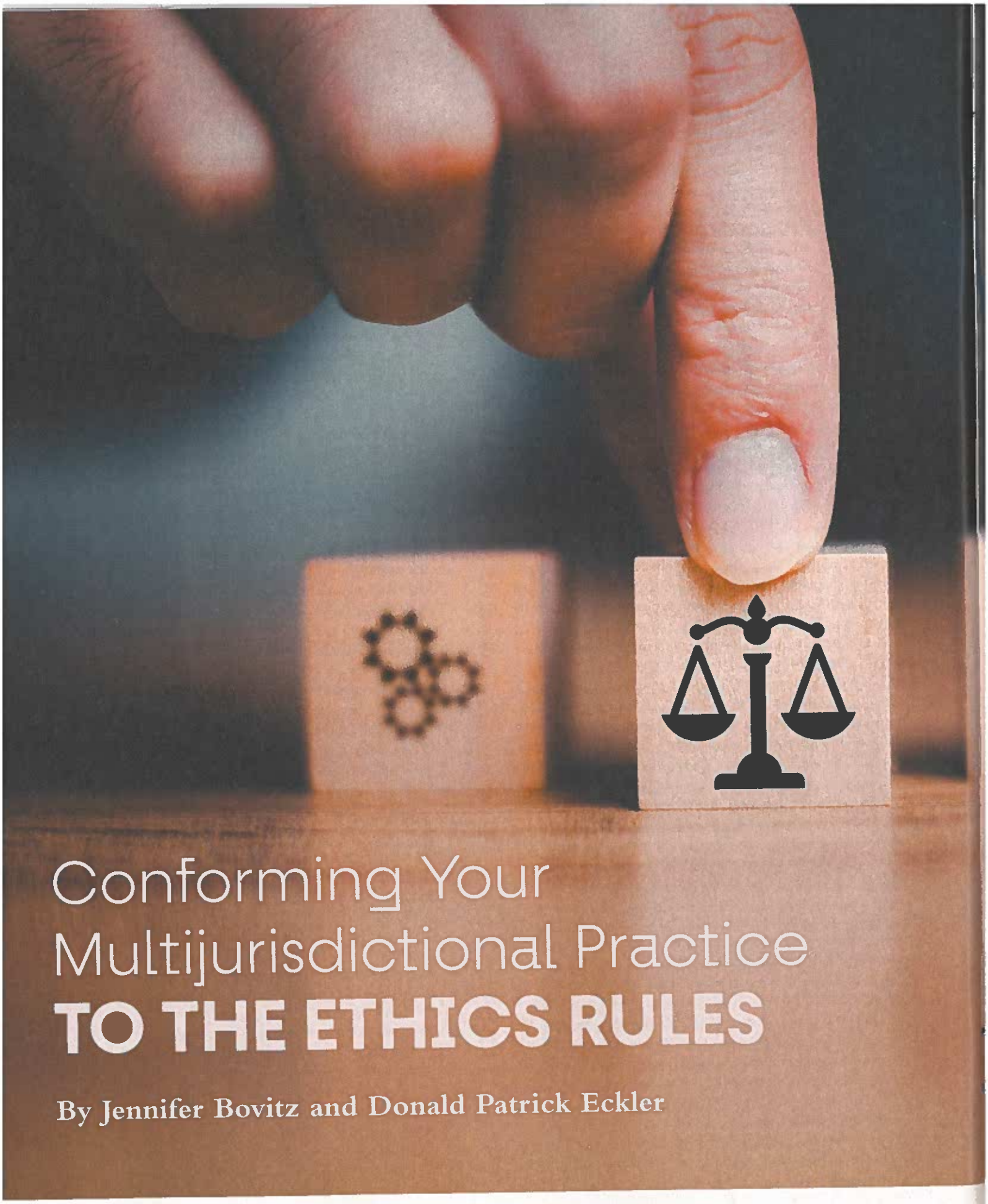
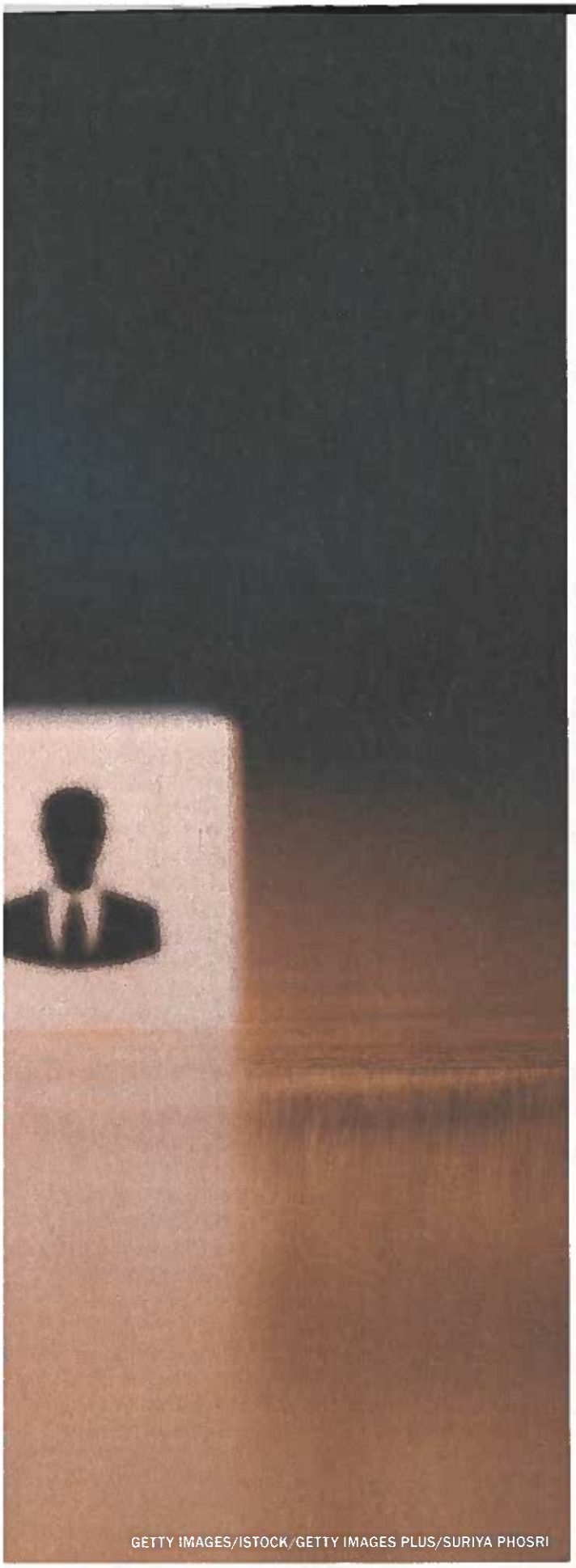


Conforming Your Multijurisdictional Practice TO THE ETHICS RULES

By Jennifer Bovitz and Donald Patrick Eckler



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Multijurisdictional practice comes in many forms. In an ever-changing legal landscape that includes the presence of remote work, lawyers must proceed with caution and awareness, including an evaluation of the lawyer's physical presence, the client's presence, and the location of the legal matter.

This article will discuss the relevant rules and factors that come into play in determining when a license to practice law in a particular state may be required, as well as the risks presented when engaging in multijurisdictional practice. Suggestions are offered for how to approach this issue on both a personal and a firm-wide level. Important to this discussion are American Bar Association (ABA) Model Rules 5.5 (titled "Unauthorized Practice of Law; Multijurisdictional Practice of Law") and 8.5 (titled "Disciplinary Authority; Choice of Law") as modified by the ABA Ethics 2000 Commission and the ABA Commission on Multijurisdictional Practice.

Two Defining Events

The rules concerning multijurisdictional practice have seen two major developments in the last 25 years. The first major development came in 1997, following the formation of the ABA Commission on Evaluation of the Rules of Professional Conduct, commonly referred to as the Ethics 2000 Commission (in light of the fact that it issued a report that year).[1] The Ethics 2000 Commission was appointed by the ABA to review the ABA Model Rules of Professional Conduct and propose changes or revisions needed to address the patchwork of state regulations as well as "the influence that technological developments were having on the delivery of legal services."[2] Its report touched upon a number of professional ethics issues, including confidentiality, conflicts of interest, screening for potential conflicts, and the duties of lawyers within firms to make reasonable efforts to establish internal policies and procedures designed to provide reasonable assurances that all lawyers in a firm will comply with the professional ethics rules.[3] Additionally, the Ethics 2000 Commission recommended significant changes in the Model Rules with respect to whether and under what circumstances a lawyer is considered to be engaged in the unauthorized practice of law.[4]

In 2000, the ABA created the Commission on Multijurisdictional Practice to further consider the issues relating to multijurisdictional practice.[5] The commission ultimately recommended amendments to add safe harbor provisions to Model Rule 5.5 as well as amendments to Model Rule 8.5 adopting the "predominant effect" language that continues to be part of the rule today, to address the choice of law issues that arise when a lawyer admitted in one state undertakes work in another state where the lawyer is not admitted.[6]

The second major development had its origins in the advent of the nationwide shift to remote work by lawyers and law firms starting in March 2020, following the imposition of metropolitan area lockdowns related to the COVID-19 pandemic.[7] With lawyers working from home, the lawyer who

TIP: Be very careful in engaging in any conduct that involves the provision of legal services within or on behalf of clients in other states.

lived in Connecticut or New Jersey and commuted into New York each day was now working, at first exclusively and since then at least part of the time, outside the state. Additionally, a large number of lawyers and others made lifestyle choices and decided to move to other states, regardless of whether that state was tens, hundreds, or even thousands of miles from their office.

Model Rules and ABA Formal Opinions

A discussion of how these major events factor into the current state of the rules regarding multijurisdictional practice begins with Model Rule 5.5. Model Rule 5.5 generally prohibits a lawyer from practicing in a jurisdiction if not admitted there, and from maintaining an office or "other systematic and continuous presence" there or holding themself out as admitted to practice there.[8] Model Rule 5.5(c) sets forth certain exceptions, or safe harbor provisions, that have become the focal point for contextualizing recent ethics developments.

Model Rule 8.5 also provides guidance with respect to the choice of which state's ethics rules will apply and divides the analysis between conduct before a tribunal, in which case the rules of the jurisdiction in which the tribunal sits apply, and any other conduct, in which case the rules of the jurisdiction in which the "predominant effect" of the conduct occurs or where the lawyer reasonably believes it will occur apply.[9]

Pro Hac Vice Practice—Not So Simple

The safe harbor provisions of Model Rule 5.5(c) provide as follows:

> 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:
>
> (1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;
>
> (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;
>
> (3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative 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
>
> (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.[10]

When analyzing multijurisdictional practice issues and applying the safe harbor provision of Model Rule 5.5(c)(3), transactional lawyers face unique issues that are distinguished from their litigator counterparts who are governed by local rules regulating pro hac vice admission. The rules concerning pro hac vice admission are worthy of a separate article.[11] Additionally, pro hac vice rules vary vastly across jurisdictions.[12]

From a review of the introductory language of this rule, the safe harbor provision afforded via Model Rule 5.5(c) with respect to pro hac vice admissions only applies to the provision of "temporary" legal services. Where the provision of services by an unlicensed attorney is deemed to be "pervasive," the safe harbor provision does not apply.[13]

The ABA Standing Committee on Ethics and Professional Responsibility has issued two formal opinions, Formal Opinion 495 ("Lawyers Working Remotely," issued December 16, 2020) and Formal Opinion 504 ("Choice of Law," issued March 1, 2023) addressing the issue of remote pervasive and persistent practice.[14] The former interpreted Model Rule 5.5 as it relates to the remote practice of law where the lawyer was physically in a jurisdiction in which they were not licensed, while the latter interpreted Model Rule 8.5, which relates to the choice of law rules that apply with regard to which state's rules govern a lawyer's practice.

Formal Opinion 495 concluded that

> in the absence of a local jurisdiction's finding that the activity constitutes the unauthorized practice of law, a lawyer may

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practice the law authorized by the lawyer's licensing jurisdiction for clients of that jurisdiction, while physically located in a jurisdiction where the lawyer is not licensed if the lawyer does not hold out the lawyer's presence or availability to perform legal services in the local jurisdiction or actually provide legal services for matters subject to the local jurisdiction, unless otherwise authorized.[15]

To answer the question of which law state's law applies, Formal Opinion 504 provides:

> When a lawyer's conduct is in connection with a matter pending before a tribunal, the lawyer must comply with the ethics rules of the jurisdiction in which the tribunal sits, unless otherwise provided. For all other conduct, . . . [a] lawyer will not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.[16]

In states that have not issued rules that clearly address the issue or where opinions are not available, Formal Opinions 495 and 504 and the Model Rules offer a starting point in evaluating how to handle a particular work arrangement for assignment in the first instance, and whether to modify or abandon a current engagement that potentially runs afoul of the rules of either jurisdiction.

Jurisdictional Highlights

With the framework of the ABA formal opinions, a lawyer must review the law in both the jurisdiction in which the lawyer intends to provide advice and the jurisdiction in which the lawyer is located when providing the advice to ensure conformity with the laws of both jurisdictions. Model Rule 5.5 has not been uniformly adopted by the states.[17] According to the ABA Center for Professional Responsibility, 42 states have not adopted Model Rule 5.5 as written.[18] Arizona, Colorado, Nevada, New Jersey, and North Carolina reflect some of the most notable deviations from Model Rule 5.5. Transactional lawyers may find these states' rules worthy of review as some commentators have opined that they offer more protection to transactional lawyers than do the rules in other jurisdictions.[19] To assist with this analysis, following are a brief discussion of excerpted opinions from select states and, because it is very restrictive by comparison with other states, an in-depth discussion of an opinion from the Illinois State Bar Association interpreting that state's law.

Missouri. In January 2024, Missouri issued two informal opinions relating to the virtual practice of law for both in-house counsel and all other lawyers. Missouri's Informal Opinion 2024-03, having broad application to non-Missouri lawyers, does not align with ABA Formal Opinion 495. Informal Opinion 2024-03 opines that if a lawyer is residing in Missouri, is licensed in another state, and plans to work from a Missouri home office for the lawyer's licensed state, the lawyer is required to seek admission in Missouri.[20] Informal Opinion 2024-02 opines that in-house counsel working virtually outside of Missouri for a corporation inside of Missouri are required to seek admission in Missouri.[21]

Washington. The Washington State Bar Association issued Advisory Opinion 201601 ("Ethical Practices of the Virtual Law Office") in 2016, concluding that a Washington licensed lawyer need not have a physical office address in Washington State.[22] It also predicted Formal Opinion 495, stating that a lawyer complies with that state's law by practicing remotely while making clear that a lawyer cannot practice in the remote location and represent that the lawyer is licensed to practice there unless the lawyer becomes licensed in that location.[23]

A lawyer must review the law in both the jurisdiction in which the lawyer intends to provide advice and the jurisdiction in which the lawyer is located when providing the advice to ensure conformity with the laws of both jurisdictions.

Oregon. The Oregon State Bar has concluded in its Formal Opinion 2022-200 that a lawyer licensed in another state and working remotely but residing in Oregon is, with qualifications, not engaged in the unauthorized practice of law in Oregon.[24] One article summarized the opinion as follows:

> [A] lawyer who is licensed in another state, but works remotely in Oregon, is not engaged in the unauthorized practice of law so long as they only practice the law of the jurisdiction in which they are licensed (an eminently reasonable conclusion). However, and consistent with [ABA] Formal Opinion 504, an Oregon lawyer who lives in another state but solely practices "in" Oregon may be engaged in the unauthorized practice of law by virtue of sitting in a jurisdiction in which they are not licensed depending on the rules of the other state.[25]

New York. Moving to the East Coast, New York has a very simple version of Rule 5.5, which provides as follows: "(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction. (b) A lawyer shall not aid a nonlawyer in the unauthorized practice of law."[26] Relatedly, section 470 of New York's Judiciary Law requires that "nonresident attorneys must maintain an office within New York in order to practice in [New York State]."[27] Section 470 has been interpreted to require nonresident lawyers to maintain a physical office space within New York so a "virtual office" does not meet the requirement.[28] Sections 476-a, 478, and 484 of the Judiciary Law define the practice of law but provide little guidance on what constitutes the practice of law.[29] One commentator has opined that "[t]he Appellate Division judges who drafted the Rules of Professional Conduct must have decided that the concepts embodied in the Model Rules were either improvident or too cumbersome. In so doing, they have left a vital question without answer in a state that probably has more corporate offices than any other."[30] Ethics Opinion 835 from the New York State Bar Association addresses whether an out-of-state lawyer may act as general counsel. It found that "[t]he question of whether an out-of-state lawyer may serve as in-house counsel for a New York corporation and maintain an office in New York is not answered by the New York Rules of Professional Conduct, but rather is a question of law beyond the Committee's jurisdiction."[31]

New Jersey. In contrast to the rather opaque rule in New York and the amorphous standards in Washington and Oregon, New Jersey's version of Rule 5.5 sets forth specific categories of out-of-state practice and then requires, among other things, that a lawyer register with the clerk of the supreme court and complete a form that appoints the clerk as the lawyer's agent for service of process.[32] This process applies even if the lawyer is only occasionally practicing in New Jersey, and even then, the lawyer must associate with a lawyer licensed in New Jersey.[33] While this rule does not seem to apply to a lawyer who is providing service to clients outside of New Jersey but is residing in or present in New Jersey, the rules do not define "the lawful practice of law in New Jersey."[34]

Illinois and the ISBA's Restrictive and Protectionist Approach

In March 2023, and in the wake of the pandemic restrictions, the Illinois State Bar Association (ISBA) issued Professional Conduct Advisory Opinion 23-01 related to the unauthorized practice of law.[35] This opinion has ethics lawyers across the country fielding numerous questions. In analyzing an ethical issue related to multijurisdictional practice and the unauthorized practice of law, there are multiple layers of analysis. First, the lawyer must consider the rules of professional conduct that apply to the jurisdiction in which they are licensed.[36] Second, the lawyer must also consider the application of the rules of professional conduct, and if applicable the tribunal, of the jurisdiction in which the lawyer is interacting and not licensed. This is where ISBA's Opinion 23-01 comes into play.

Illinois's ethics advisory opinions have no force of law. They are not binding upon the Illinois Supreme Court, which is the final arbiter of the meaning of the Rules of Professional Conduct. Illinois does not have a unified bar, and the ISBA is not the voice of the Illinois disciplinary authority. The Attorney Registration and Disciplinary Commission (ARDC) is an agency of the Illinois Supreme Court, which, pursuant to the Illinois Constitution, is the sole Illinois disciplinary authority. Nonetheless, the opinion is causing ethics lawyers to field a number of questions, in large part because of the following factual scenario that forms the predicate for the opinion:

> A non-Illinois lawyer (admitted only in Florida) has friends living in Chicago, Illinois. One of the Chicago friends contacted the non-Illinois lawyer seeking assistance regarding an employment matter. The Chicago friend's former employer has refused to pay earned wages and is refusing to provide a W-2 form. The non-Illinois lawyer is considering sending a demand letter to the former employer in an effort to resolve the matter for her friend. The demand letter would be signed by the non-Illinois lawyer in her capacity as a lawyer ("Esq."). The non-Illinois lawyer is willing to provide her legal services pro bono. In the event the matter cannot be resolved, and litigation is required, the non-Illinois lawyer is willing to apply for pro hac vice admission in Illinois or would refer the matter to an Illinois lawyer.[37]

Does a lawyer engage in the unauthorized practice of law by sending a demand letter in this situation, or do the temporary safe harbor protections of Illinois Rule 5.5(c)[38] apply? There is little argument that the temporary practice safe harbor exception found in Rule 5.5(c)(1), permitting a lawyer to practice when the legal services are undertaken in association with a lawyer licensed in the jurisdiction, does not apply.[39] Likewise, there is no argument that the demand letter is a temporary practice related to an arbitration, mediation, or other alternative dispute resolution proceeding.[40]

According to ISBA Opinion 23-01, the safe harbor provision found in Rule 5.5(c)(2), enabling lawyers who reasonably expect to appear in a pending or potential proceeding through pro hac vice admission to conduct preliminary activities to prepare for the lawsuit, is also inapplicable.[41] The opinion declares that sending a demand letter "is not preliminary work associated with a pending or potential proceeding."[42] The reasoning relies in part on precedent and analysis that the demand letter is intended to resolve the dispute; therefore, if effective, the lawyer would not reasonably expect to be admitted pro hac vice or authorized to practice in Illinois because there would be no need.[43]

The final catch-all temporary safe harbor exception found in Illinois Rule 5.5(c)(4) applies if the lawyer's services arise out of, or are reasonably related to, the state in which the lawyer is admitted to practice law.[44] Applying this exception

to the hypothetical, ISBA Opinion 23-01 reasons that the lawyer's Florida practice is not reasonably related to a demand letter sent on behalf of an Illinois client to an Illinois employer involving an Illinois dispute.[45] In analyzing its comment 14, defining "reasonably related," as an example, the ISBA contrasts Minnesota's amendments to Rule 5.5(c)(4), clarifying "reasonably related" and adopting an exception that allows non-Minnesota lawyers to represent family members whether or not the representation is reasonably related to the lawyer's practice area.[46]

Readers are cautioned by the authors that the following questions posed do not involve representation of clients in litigation occurring in their state of admission.

Can out-of-state lawyers who represent corporate clients with a presence in Illinois assist the corporate client with understanding or complying with an Illinois law? To frame the issue generally, it is helpful to be aware of initial factors that impact the analysis. The first question to ask is does the client have a presence in the lawyer's state of admission as well as an Illinois presence? If yes, then there are arguments that Rule 5.5 may be inapplicable, because there may not be a basis for concluding that the lawyer is "in" Illinois for Rule 5.5 purposes if advising a client present in the lawyer's home state. The practice of law in Illinois is regulated by the Attorney Act[47] and Article VII of the Illinois Supreme Court Rules. Neither law specifically defines what constitutes the unlicensed practice of law, but when examining acts or conduct to determine whether they constitute the practice of law, courts look to the character of the acts themselves.[48] If the particular act requires legal skills or knowledge or more than ordinary business intelligence, courts hold that the act constitutes the practice of law.[49]

If, however, the lawyer is "in" Illinois for Rule 5.5 purposes, the lawyer needs to consider the Rule 5.5(c) safe harbors if advising a client in Illinois. If the lawyer can associate with one who is licensed to practice in Illinois, then that would likely fall within the safe harbor protections of Rule 5.5(c)(1).

It does not appear that Rule 5.5(c)(2) applies as the hypothetical does not seem to involve any current or potential litigation and seems only to concern the giving of advice on Illinois law. Likewise, Rule 5.5(c)(3) does not seem to apply because this does not appear to relate to the lawyer's practice in another jurisdiction or relate to an arbitration, mediation, or other alternative dispute resolution proceeding.

ISBA Opinion 20-08 gives some additional guidance, as the conclusion of that opinion was that a new associate not yet licensed in Illinois could assist on matters involving Illinois law because they were under the supervision of Illinois lawyers.[50]

It would seem that a lawyer not licensed to practice in Illinois would not be able to provide the requested advice unless the lawyer associated with a lawyer licensed to practice in Illinois. An exception that might apply is Rule 5.5(c)(4) if the advice "arise[s] out of or [is] reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is licensed to practice."[51] One should be careful not to read that exception too broadly or risk running afoul of the rule. As articulated in ISBA Opinion 23-01, a review of comment 14 to Rule 5.5, which defines "reasonably related," might be of assistance (more on that below).

If a lawyer is a practice area expert and they are contacted about a matter in Illinois, can they advise the client? Here again, the location of the client is important. The most prudent course would be to associate with an Illinois licensed attorney, either in one's firm or in another firm.[52] The exception in Rule 5.5(c)(2) might apply if there is pending or potential litigation and there is an anticipation that the work will lead to litigation in which the lawyer expects to be admitted to practice in that matter. As articulated in ISBA Opinion 23-01, there must actually be an expectation that the litigation will commence.[53]

In analyzing an ethical issue related to multijurisdictional practice and the unauthorized practice of law, there are multiple layers of analysis.

Comment 14 to Rule 5.5 specifically references subject matter expertise in the context of reasonable relatedness as included in Rule 5.5(c)(3) and (c)(4), stating "the services may draw on the lawyer's recognized expertise developed through the regular practice of law on behalf of clients in matters involving a particular body of federal, nationally uniform, foreign, or international law."[54] Accordingly, depending on the nature of the matter and so long as it does not relate to Illinois law, the out-of-state lawyer may be able to render the requested advice.

What if a lawyer is asked to send a demand letter? Rule 5.5(c)(4) requires that the circumstances "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."[55] Comment 14 to Illinois Rule 5.5 seeks to explain what "reasonably related" means:

> Paragraphs (c)(3) and (c)(4) require that the services arise out of or be reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted. A variety of

> factors evidence such a relationship. The lawyer's client may have been previously represented by the lawyer, or may be resident in or have substantial contacts with the jurisdiction in which the lawyer is admitted. The matter, although involving other jurisdictions, may have a significant connection with that jurisdiction. In other cases, significant aspects of the lawyer's work might be conducted in that jurisdiction or a significant aspect of the matter may involve the law of that jurisdiction. The necessary relationship might arise when the client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their lawyer in assessing the relative merits of each. In addition, the services may draw on the lawyer's recognized expertise developed through the regular practice of law on behalf of clients in matters involving a particular body of federal, nationally uniform, foreign, or international law.[56]

If these factors are met, the demand will be permissible.

Likewise, if a lawyer determines that the demand letter falls within the safe harbor of Rule 5.5(c)(2), then the lawyer must be sure not to hold themself out as being licensed in Illinois or having an office there.[57]

Can a lawyer represent a client in a state or local government action in Illinois, like discrimination or a government audit? Is the analysis different if the client is based in a state where the lawyer is licensed and has operations outside of a state where the lawyer is licensed? If an attorney is asked because they have substantial experience in a particular area of law, would Rule 5.5(c)(4) apply? The answer will depend on whether the conduct relates to activities in Illinois. The question seems to posit a hypothetical where the conduct is centered in Illinois as it is a state or local entity that is bringing the action. Given that, and that it is likely to involve the application of Illinois law, and if the lawyer expects to be able to be authorized to practice in the proceeding, then the exception of Rule 5.5(c)(2) may apply and the out-of-state lawyer may assist with the matter. As a practical matter though, an attorney seeking such admission will likely need to associate with an Illinois attorney to sponsor the admission.[58]

The locus of the client in the attorney's home state likely does not aid the analysis as the exception of Rule 5.5(c)(3) only applies to alternative dispute resolution procedures, which do not seem implicated by the hypothetical.

Rule 5.5(c)(4) likely also does not apply as this matter does not seem to relate to a "body of federal, nationally uniform, foreign, or international law." The claim is being brought by an Illinois state or local entity and thus is under state law or local ordinance.

This does not mean that the out-of-state lawyer cannot be involved, and indeed principally handle the matter. It just means that the out-of-state lawyer should associate with an Illinois licensed attorney and gain admission pro hac vice before the Illinois tribunal.

Conclusion

The practice of law is ever evolving and trending away from geographic boundaries. However, the ethics rules governing the practice of law appear to be ill-equipped to address these changes. State and federal courts require licensing, and that is not likely to change. The best advice is to be very careful in engaging in any conduct that involves the provision of services within or on behalf of clients in other states. In particular, it should be noted that for pre-litigation and transactional matters, the laws regarding the unlicensed practice of law apply, and a lawyer is unlikely to succeed in arguing that a safe harbor provision will protect the lawyer from being found to have engaged in the unauthorized practice of law if they are, indeed, found to be engaging in such activities. Practitioners are strongly advised to consult the rules and laws of the forums in which they are doing work of any kind, especially if they are looking to threaten future litigation to try to advance a client's objectives.

States have taken a variety of positions as to how these rules should be interpreted. At one end of the spectrum is Missouri's and Illinois's interpretation of Rule 5.5, and in particular Rule 5.5(c)(4), which may be considered restrictive, especially when demands are frequently preliminary to other litigation. Remote work initiated by the pandemic, along with guidance offered by the ABA in Formal Opinion 495, has allowed attorneys to feel more accessible to clients beyond their jurisdiction. However, Illinois and jurisdictions with similar interpretations of Rule 5.5 provide an important reminder that when engaging in multijurisdictional practice, attorneys must understand how the jurisdictions with which they are interacting interpret and define Rule 5.5. ◀

Notes

1. *Ethics 2000 Commission*, Am. Bar Ass'n, https://www.americanbar.org/groups/professional_responsibility/policy/ethics_2000_commission (last visited Apr. 5, 2024).

2. Am. Bar Ass'n Comm'n on Evaluation of the Rules of Pro. Conduct, Report to the ABA House of Delegates (2001), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/report_hod_082001.pdf.

3. *Id.*

4. Am. Bar Ass'n House of Delegates, Evaluation of the Rules of Professional Conduct (Report No. 401) (2002), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics2000_report_hod_022002.pdf.

5. *Commission on Multijurisdictional Practice*, Am. Bar Ass'n, https://www.americanbar.org/groups/professional_responsibility/committees_commissions/commission-on-multijurisdictional-practice (last visited Apr. 5, 2024).

6. Am. Bar Ass'n Comm'n on Multijurisdictional Practice, Report to the House of Delegates (Report No. 201C) (2002), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/mjp_migrated/201c.pdf.

7. Carol A. Needham, *Multijurisdictional Practice Regulations Governing Attorneys Conducting a Transactional Practice*, 2003 U. Ill. L. Rev. 1331;

James Geoffrey Durham & Michael H. Rubin, *Multijurisdictional Practice and Transactional Lawyers: Time for a Rule That Is Honored Rather Than Honored in Its Breach*, 81 La. L. Rev. 679 (2021).

8. Model Rules of Pro. Conduct r. 5.5 (Am. Bar Ass'n 2024).

9. *Id.* at r. 8.5.

10. *Id.* at r. 5.5(c).

11. Durham & Rubin, *supra* note 7.

12. Am. Bar Ass'n Ctr. for Pro. Resp., Comparison of ABA Model Rule for Pro Hac Vice Admission with State Versions and Amendments Since August 2002 (Jan. 26, 2017), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/prohac_admin_comp.authcheckdam.pdf.

13. Model Rules of Pro. Conduct r. 5.5(c).

14. ABA Comm. on Ethics & Pro. Resp., Formal Op. 495 (2020), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-495.pdf; ABA Comm. on Ethics & Pro. Resp., Formal Op. 504 (2023), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-504.pdf.

15. ABA Formal Op. 495, *supra* note 14.

16. ABA Formal Op. 504, *supra* note 14.

17. *See* Am. Bar Ass'n Ctr. for Pro. Resp., Variations of the ABA Model Rules of Professional Conduct: Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law (Mar. 15, 2024), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/mrpc-5-5.pdf.

18. *Id.*

19. Durham & Rubin, *supra* note 7, at 705–07.

20. Mo. Off. of Legal Ethics, Informal Op. 2024-03 (2024), https://mo-legal-ethics.org/informal-opinion/2024-03.

21. Mo. Off. of Legal Ethics, Informal Op. 2024-02 (2024), https://mo-legal-ethics.org/informal-opinion/2024-02.

22. Wash. State Bar Ass'n, Advisory Op. 201601 (2016), https://ao.wsba.org/print.aspx?ID=1686.

23. *Id.*

24. Or. State Bar, Formal Op. 2022-200 (2022), https://www.osbar.org/_docs/ethics/2022-200.pdf.

25. Nellie Barnard & Bailey Oswald, *Living and Working in Multiple Jurisdictions? Consider Which Ethical Rules Apply*, JD Supra (Apr. 26, 2023), https://www.jdsupra.com/legalnews/living-and-working-in-multiple-6565797.

26. N.Y. Rules of Pro. Conduct r. 5.5 (2022), https://www.nycourts.gov/ad3/AGC/Forms/Rules/Rules of Professional Conduct 22NYCRR Part 1200.pdf.

27. Schoenefeld v. State, 29 N.E.3d 230, 231 (N.Y. 2015).

28. Marina Dist. Dev. Co. v. Toledano, 60 Misc. 3d 1203(A) (N.Y. Sup. Ct. 2018); *see also* Law Off. of Angela Barker, LLC v. Broxton, 78 N.Y.S.3d 624 (App. Term 2018).

29. N.Y. Judiciary Law §§ 476-a, 478, 484.

30. Lazar Emanuel, *Multijurisdictional Law Practice by Corporate Counsel*, N.Y. Legal Ethics Rep. (Feb. 2010), http://www.newyorklegalethics.com/multijurisdictional-law-practice-by-corporate-counsel.

31. N.Y. State Bar Ass'n Comm. on Pro. Ethics, Ethics Op. 835 (2009), https://nysba.org/ethics-opinion-835.

32. N.J. Sup. Ct., Non-New Jersey Attorney Designation of Clerk as Agent for Service of Process: Multi-Jurisdictional Practice Registration (RPC 5.5) Instructions (Feb. 2024), https://www.njbarexams.org/designation-of-clerk-for-service-of-process-multi-jurisdictional-form.

33. N.J. Rules of Pro. Conduct r. 5.5 (2024), https://www.njcourts.gov/attorneys/rules-of-court?section=Part+1.

34. *See id.*

35. Ill. State Bar Ass'n [ISBA], Op. 23-01 (2023), https://www.isba.org/sites/default/files/ethicsopinions/23-01.pdf.

36. Mary F. Andreoni, *The Ethics of Working Remotely from Another Jurisdiction*, Ill. Cts. (Dec. 21, 2020), https://www.illinoiscourts.gov/News/965/The-Ethics-of-Working-Remotely-from-Another-Jurisdiction/news-detail.

37. ISBA Op. 23-01, *supra* note 35, at 1–2.

38. Illinois Rule 5.5(c) is substantially the same as ABA Model Rule 5.5(c).

39. *See* Model Rules of Pro. Conduct r. 5.5(c)(1) (Am. Bar Ass'n 2024); Ill. Rules of Pro. Conduct r. 5.5 cmt. 8 (2016), https://www.illinoiscourts.gov/rules/supreme-court-rules?a=viii.

40. *See* Model Rules of Pro. Conduct r. 5.5(c)(3).

41. *See id.* at r. 5.5(c)(2); ISBA Op. 23-01, *supra* note 35, at 5.

42. ISBA Op. 23-01, *supra* note 35, at 5.

43. *Id.* at 6.

44. Ill. Rules of Pro. Conduct r. 5.5(c)(4).

45. ISBA Op. 23-01, *supra* note 35, at 6–7.

46. *Id.* at 7; Minn. Rules of Pro. Conduct r. 5.5(c)(4) (2022), https://www.revisor.mn.gov/court_rules/pr/subtype/cond/id/5.5.

47. 705 Ill. Comp. Stat. 205/0.01 *et seq.*

48. Chi. Bar Ass'n v. Quinlan & Tyson, Inc., 214 N.E.2d 771 (Ill. 1966).

49. *Id.*; *In re* Discipio, 645 N.E.2d 906 (Ill. 1994); *In re* Yamaguchi, 515 N.E.2d 1235 (Ill. 1987); People *ex rel.* Ill. State Bar Ass'n v. Schafer, 87 N.E.2d 773 (Ill. 1949); ISBA Op. 95-7 (1995), https://www.isba.org/sites/default/files/ethicsopinions/95-07.pdf; *see also* Tom Gaylord (updated by Ariel Scotese), *Avoiding the Unauthorized Practice of Law*, *in* Finding Illinois Law 61 (2d ed. 2021), https://chicagolawlib.org/wp-content/uploads/2021/04/Chapter-10-Avoiding-the-Unauthorized-Practice-of-Law-2d-ed.pdf.

50. ISBA Op. 20-08 (2020), https://www.isba.org/sites/default/files/ethicsopinions/Opinion 20-08.pdf.

51. Ill. Rules of Pro. Conduct r. 5.5(c)(4).

52. *Id.* at r. 5.5(c)(1).

53. ISBA Op. 23-01, *supra* note 35, at 5.

54. Ill. Rules of Pro. Conduct r. 5.5 cmt. 14.

55. *Id.* at r. 5.5(c)(4).

56. *Id.* at r. 5.5 cmt. 14.

57. *Id.* at r. 5.5(b)(2); ABA Formal Op. 495, *supra* note 14.

58. Ill. Sup. Ct. r. 707(d)(8).