

**STATE OF WISCONSIN
SUPREME COURT**

In the Matter of the Definition
of the Practice of Law and the
Administration of a Rule
Defining the Practice of Law

**PETITION FOR
SUPREME COURT RULE**

BOARD OF GOVERNORS OF THE
STATE BAR OF WISCONSIN, Petitioner

INDEX

- Petition** Petition for Supreme Court Rule In the Matter of the Definition of the Practice of Law and the Administration of a Rule Defining the Practice of Law, Board of Governors of the State Bar of Wisconsin, Petitioner
- Exhibit A** Proposed Supreme Court Rule Chapter 23, Regulation of Unauthorized Practice of Law
- Exhibit B** American Bar Association 2004 Survey of Unlicensed Practice of Law Committees
- Exhibit C** State of Washington
- General Rule 24: General Definition of the Practice of Law
 - General Rule 25: Practice of Law Board
 - Practice of Law Board Regulations
- State of Colorado
- Definition of Practice of Law by Colorado Supreme Court
 - Unauthorized Practice of Law Rules
 - Brochure Published by Colorado Supreme Court Attorney Regulation Counsel
 - List of Persons Ordered to Stop Engaging in the Unauthorized Practice of Law in Colorado
 - Notice About Immigration Services
- Exhibit D** Representative Complaints Filed with the State Bar of Wisconsin Regarding the Unauthorized Practice of Law

**STATE OF WISCONSIN
SUPREME COURT**

In the Matter of the Definition
of the Practice of Law and the
Administration of a Rule
Defining the Practice of Law

PETITION FOR SUPREME COURT RULE

To: The Honorable Justices of the Wisconsin Supreme Court

The Board of Governors of the State Bar of Wisconsin, by Thomas J. Basting, Sr., President of the State Bar of Wisconsin, petitions this Honorable Court to adopt Supreme Court Rule 23, a new Court rule to define the practice of law and create a system to administer the rule, subject to supervision and control by the Court.

The grounds for the petition are as follows:

1. Because of the importance to our society of a properly functioning legal system, it is well established that only lawyers should be allowed to practice law. The practice of law is limited to lawyers because:

(a) A lawyer is considered to possess a special body of learning and special skills and techniques in the application of such learning. Lawyers undergo specialized training and education which are designed to qualify them to find the law, interpret the law, and apply the law to situations that arise in our society. In addition, lawyers are educated to engage in logical reasoning and to recognize and foresee the consequences of a particular course of conduct or action to be taken by a member of society.

(b) In most jurisdictions, a person who is a lawyer does not "practice law" as a matter of right but only after the person has met standards established by the government. In Wisconsin, the Wisconsin Supreme Court is vested with the sole power and authority to regulate the practice of law and those persons engaged in the practice of law. The power and authority of the Court to regulate the practice of law extends to the

regulation of the improper conduct of persons who are not licensed by the Court to engage in the practice of law.

2. The well-being of our society is dependent upon the competent administration and application of the laws which provide the framework for an orderly society. Lawyers who practice law serve as a liaison between the members of society who are impacted by laws and the governmental bodies which make, execute and adjudicate the laws. The importance to society of the function served by lawyers who practice law would appear to be the basis for the intense regulation by the Wisconsin Supreme Court of persons who practice law. Under the current regulatory scheme, only persons admitted by the Wisconsin Supreme Court can practice law in Wisconsin, and to be admitted requires not only a showing of competence but of good character and fitness. To continue to be able to practice law, lawyers must maintain their knowledge and skills, must be a member of an organized Bar, must conform to certain rules of conduct designed to maintain the integrity of the legal profession and the interests of the persons being served, and must submit to a disciplinary system which could result in the suspension or termination of those lawyers' right to practice law.

3. Currently, notwithstanding the fact that the Court has adopted a comprehensive set of rules to regulate persons who wish to engage in the practice of law, there is no Court rule which defines the kinds of activities which constitute the practice of law. In deciding cases which have come before it, the Court has on occasion determined that certain kinds of activities carried on by persons do or do not constitute the practice of law. The Wisconsin legislature, by Section 757.30 of the Wisconsin Statutes, has adopted a criminal statute which provides sanctions for practicing law without being duly licensed by the Court, but the statute does not contain a clear definition of what constitutes the practice of law. Because of the inadequacies of Section 757.30 and the press of other business, district attorneys are not inclined to investigate and pursue complaints by persons who suffer harm as a result of unlicensed persons practicing law. As a result, Section 757.30 is wholly inadequate and ineffective as a device for protecting the public from persons engaged in such activities. Because of the absence of a Court rule defining the

practice of law and because of the inadequacies of Section 757.30, on occasion particularly egregious situations involving the actions of unlicensed persons have been prosecuted by authorities under Section 100.18 of the Wisconsin Statutes, which deals with “fraudulent representations”. It is not in the public interest for injured parties or authorities to have to peruse the statutes to hopefully find a provision which would permit the prosecution of a person engaged in the practice of law without being duly licensed by the Court.

4. Unlicensed persons who engage in the practice of law are not subject to the various Court rules which regulate licensed lawyers in Wisconsin. Members of the public who seek help and advice regarding legal matters from unlicensed persons engaged in the practice of law are not protected or benefited by the Court rules regulating licensed lawyers. Neither are such clients protected with respect to confidential communications and conflicts of interest.

5. Establishing a Court rule which defines the practice of law and adopting a system to administer the rule, which includes authorizing the administrator of the rule to deal with instances of the unlicensed persons engaged in the practice of law, is in the public interest. In the absence of a definition of the practice of law, it is difficult if not impossible to effectively deal with persons who cause harm to members of the general public by engaging in conduct and activities for which they are not qualified. It is too often the case that members of the public who are harmed and damaged by unlicensed persons who engage in the practice of law have no effective recourse.

6. Numerous professions and service providers are regulated by statute and administrative rules. Such regulation is premised on protection of the general public. In other words, the laws and regulations which regulate certain service providers who purport to have specialized skills are designed to set standards and to preclude the unqualified from providing the regulated service. In the context of such regulation, it is not unusual for the statute or regulation to define or describe the kinds of activities and functions that constitute the regulated activity. Chapter 441.001 of the Wisconsin Statutes defines what constitutes “nursing”. Chapter 442.02 defines a certified public accountant. Chapter 443 defines what constitutes “landscape

architecture”, “land surveying”, the practice of architecture and the practice of engineering. Chapter 446 defines the practice of chiropractic. Chapter 449 defines the practice of optometry.

7. The following are real life examples collected by Petitioner of the kinds of activities and conduct which Petitioner alleges constituted the practice of law by unlicensed persons:

(a) A person licensed in Wisconsin as a surveyor, and not as a lawyer, was retained by a landowner to survey property for the purpose of locating boundary lines and certain easements which the surveyor’s customer desired to create. The surveyor drafted a deed for the purpose of creating an easement and in the process subjected the land owned by a neighbor of the surveyor’s customer to an unauthorized easement and encumbrance. The neighbor incurred substantial costs to clear title to his land. The local district attorney refused to investigate and prosecute the surveyor under Section 757.30. The district attorney felt that it was not unusual for a surveyor to draft a deed.

(b) A person not licensed as a lawyer was engaged in the business of selling canned revocable trusts to individuals as estate planning panaceas. The purveyor of the trusts did not have the interest or competence to determine whether the client’s assets and situation were suitable for the use of a revocable trust and charged outrageous fees for supplying the trust document to the client. In addition, the purveyor of the revocable trusts failed to advise or assist the client to transfer assets to the trust so one of its primary purposes, avoiding the need for probate, could be attained.

(c) U.S. immigration laws and regulations are quite complex and are vigorously administered by the government. Persons in Wisconsin, not licensed as lawyers, provide incomplete and incorrect advice and counsel to aliens residing in Wisconsin, which has placed aliens in positions where lawful employment has been lost and the aliens have been subjected to the risk of deportation and not being able to return to the United States for 10 years.

(d) Persons operating in Mexico and in certain other South American countries as “notarios” have certain legal training and are able to handle certain legal matters. Over the years Wisconsin has accumulated a significant Hispanic population. Persons in Wisconsin, not licensed as lawyers but holding a commission as a notary public, are advertising in the Hispanic community as “notarios,” implying to Hispanic residents that the “notario” is qualified to handle legal matters for Hispanic residents.

(e) A person not licensed to practice law in Wisconsin, located in southwestern Wisconsin, operated a post-conviction remedy business. The persons involved in the operation would contact the family members of persons incarcerated in various prisons with an offer to assist such family members, for a substantial fee, to file with a court on a pro se basis motions and briefs which were supposed to result in the prisoner being released. The documentation used was incompetently prepared and the family members paid thousands of dollars for incompetent and wholly ineffective legal services.

Copies of several of the formal complaints filed with Petitioner by or on behalf of complainants are attached to this petition as Exhibit D.

Petitioner submits that the current ambiguities regarding what constitutes the practice of law have contributed to the proliferation of service providers, some of whom are well-meaning and some of whom are charlatans and criminals, who do not have the education and competence to provide legal services to society, all to the emotional and financial detriment of those members of society who engage such a service provider. The lack of clarity as to what constitutes the practice of law and the activities of unqualified and incompetent persons who engage in the practice of law without being licensed have been harmful to consumers of services in Wisconsin. The application of laws and regulations to members of society often involves issues which are critical to the social and economic well-being of the members. It is important that the members of society who seek assistance from third persons regarding the application of

the law to them are able to have confidence that the information, advice and counsel received are delivered by a competent person.

8. The importance to society of defining the practice of the law and of providing effective remedies for members of society who have been harmed by unlicensed persons engaged in the practice of law has been recognized by many states. In the last few years the following states have adopted rules or legislation which define the practice of law and which provide systems for administering the rule and for providing effective redress to persons who suffer harm as a result of the practice of law by unlicensed persons.

The following states have adopted a definition of the practice of law by statute:

Alabama, Alaska, Arizona, Colorado, District of Columbia, Hawaii, Idaho, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Utah, Virginia, Washington, West Virginia, and Wyoming.

The following states have adopted a definition of the practice of law by court rule:

Alaska, Arizona, District of Columbia, Idaho, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, Utah, Virginia, Washington, West Virginia, and Wyoming.

A summary of the actions taken by the foregoing states regarding a definition of the practice of law is contained in an American Bar Association monograph dated December, 2004, a copy of which is attached as Exhibit B. Also attached as Exhibit C are copies of the rules of the Supreme Court of the State of Washington which define the practice of law and which create a system to administer the rule and copies of the statutes and Supreme Court rules of Colorado which define the practice of law.

9. Petitioner recognizes that a rule defining the practice of law must contain certain exemptions which reflect the current state of the law and policies which pertain to the provision of legal assistance to members of society who cannot afford to retain and pay for legal services in the marketplace. The proposed rule provides for pertinent exceptions to the application of the rule.

10. In order for a rule defining the practice of law to be helpful in protecting the public from the problems and damage which often result from the practice of law by unlicensed persons, there must be a system for administering the rule whereby the administrator is empowered to act to terminate such activities. The administrator must have the power and authority to receive complaints, investigate complaints, issue cease and desist orders, and if necessary, petition courts for injunctions or other suitable remedies. Section 757.30 of the Wisconsin Statutes does not provide an effective remedy for dealing with the practice of law by unlicensed persons because of the inadequate definition of what constitutes the practice of law and because district attorneys generally, for various reasons, are not inclined to devote resources to investigating and prosecuting matters which fall within the scope of that statute.

11. Because the proposed rule defining the practice of law is intended to protect the service-consuming public, Petitioner recommends that the administrative function be called the Legal Services Office of Consumer Protection.

12. Because the purposes of the Office of Lawyer Regulation and the proposed Legal Services Office of Consumer Protection would be similar, namely, the protection of the public, Petitioner recommends that the Legal Services Office of Consumer Protection be located and operated in conjunction with the Office of Lawyer Regulation. Petitioner believes that the Legal Services Office of Consumer Protection could, at least initially, be operated by a half-time person. Petitioner believes that the initial cost of operating the Legal Services Office of Consumer Protection will not exceed \$60,000-\$70,000 per annum and that an assessment of \$4.00 per State Bar member would provide funds sufficient to operate the said office.

13. After careful study, research and analysis, Petitioner has concluded that the public interest will be served by the Court adopting a new rule which defines the practice of law and which establishes a system to administer the rule, including the authority of the administrator to employ typical civil remedies to enforce the rule.

WHEREFORE, Petitioner respectfully requests that the Court adopt attached Exhibit A as Supreme Court Rule Chapter 23, Regulation of Unauthorized Practice of Law. Petitioner

further requests that the costs of administration be borne by the Petitioner through its dues structure for members.

Respectfully submitted this ____ day of June, 2007.

BOARD OF GOVERNORS OF THE
STATE BAR OF WISCONSIN, Petitioner

By: _____

Thomas J. Basting, Sr., President
State Bar of Wisconsin

EXHIBIT A

EXHIBIT A

SCR CHAPTER 23 REGULATION OF UNAUTHORIZED PRACTICE OF LAW

SCR 23 Preamble. The unauthorized practice of law system is established to carry out the supreme court's constitutional responsibility to supervise the practice of law and protect the public from harm by persons engaged in the unauthorized practice of law in Wisconsin.

SCR 23.01 Definition of practice of law.

(1) The practice of law in Wisconsin is the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person(s). This includes but is not limited to:

- (a) Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration.
- (b) Selection, drafting, or completion of legal documents or agreements which affect the legal rights of an entity or person(s).
- (c) Representation of another entity or person(s) in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution process or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review.
- (d) Negotiation of legal rights or responsibilities on behalf of another entity or person(s).
- (e) Any other activity determined to be the practice of law by the Wisconsin Supreme Court.

SCR 23.02 License required to practice law; use of titles.

(1) Right of a person to practice law in Wisconsin. A person who is duly licensed by the Wisconsin Supreme Court and who is an active member of the State Bar of Wisconsin may practice law in Wisconsin. No person may engage in the practice of law in Wisconsin, or attempt to do so, or make a representation that he or she is authorized to do so, unless the person is currently licensed to practice law in Wisconsin by the Wisconsin Supreme Court and is an active member of the State Bar of Wisconsin.

(2) Exceptions. A license to practice law and active membership in the State Bar of Wisconsin are not required for a person engaged in any of the following activities in Wisconsin:

- (a) Practicing law by a non-resident counsel pursuant to SCR 10.03(4).
- (b) Serving as a courthouse facilitator pursuant to court rule.
- (c) Acting as a lay representative authorized by administrative agencies or tribunals.
- (d) Serving in a neutral capacity as a mediator, arbitrator, conciliator, or facilitator.
- (e) Participation in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements.
- (f) Acting as a legislative lobbyist.
- (g) Sale of legal forms in any format.
- (h) Activities which are preempted by federal law.
- (i) Selection of and/or completion of a legal document previously approved by a lawyer by filling in the blanks where that activity requires only common knowledge regarding the required information and general knowledge of the legal consequences.
- (j) Serving in a neutral capacity as a clerk or court employee providing information to the public pursuant to Supreme Court Order.

(k) Such other activities that the Supreme Court has determined by rule or by published opinion do not constitute the unlicensed or unauthorized practice of law or which are permitted under a regulatory system established by the Supreme Court.

(l) Acting as a non-lawyer advocate under the direction or supervision of a lawyer.

(m) Acting as a non-lawyer assistant under the supervision of a lawyer.

(n) Governmental agencies carrying out responsibilities provided by law.

(3) Use of titles. Only a person who is currently licensed to practice law by the Wisconsin Supreme Court and who is an active member of the State Bar of Wisconsin may use the title "attorney", "lawyer" or any similar title, or may state or imply that he or she is licensed to practice law in Wisconsin. Only a person who is currently licensed to practice law in Wisconsin and who is an active member of the State Bar of Wisconsin may represent himself or herself to the public by any description of services incorporating the words "law" or "legal". *See comment below.**

SCR 23.03 Duties and powers of the Office of Lawyer Regulation.

The Office of Lawyer Regulation, as described in SCR 21.02 through SCR 21.05, shall:

(1) Receive and respond to information, inquiries and complaints relating to persons and entities alleged to have engaged in the unauthorized practice of law in Wisconsin.

(2) Investigate allegations of unauthorized practice of law.

(3) Enter into consent and desist agreements with those who have engaged in the unlicensed practice of law.

(4) Seek civil action for violations of consent agreements.

(5) Seek injunctive relief against those who have engaged in the unlicensed practice of law.

(6) Monitor that individuals comply with terms of cease and desist agreements and with orders of injunction.

SCR 23.04 Office of Lawyer Regulation - director.

The director of the Office of Lawyer Regulation is authorized to:

(1) Receive, review and direct the investigation of allegations of unauthorized practice of law.

*** Comment**

The practice of law requires a skillful practitioner with training in how to find, interpret and apply the law in various circumstances which involve the legal rights and interests of the person(s) being served. Licensure and regulation of the practice of law are necessary to protect the public interest from harm which can result from incompetency, dishonesty and unethical behavior. The regulation of the practice of law in Wisconsin is a judicial power vested in the Wisconsin Supreme Court. *Seitziger v. Community Health Network*, 2004 WI 28, par. 31, 270 Wis. 2d 1, 19.

A license to practice law in Wisconsin is a privilege bestowed upon someone who has completed legal training through an accredited law school and who has met the standards prescribed by the Wisconsin Board of Bar Examiners. Once admitted to practice law in Wisconsin, a lawyer must comply with requirements designed to reduce the likelihood of harm to the public. For example, a lawyer must complete a minimum number of hours of continuing legal education every two years and is required to follow a code of professional and ethical conduct. The failure of a lawyer to abide by the required standards may result in discipline, including but not limited to suspension and/or revocation of a lawyer's license to practice law as well as other remedies.

- (2) Close an inquiry or complaint following preliminary evaluation and to dismiss an inquiry or complaint following investigation when there is insufficient evidence of cause to proceed.
- (3) Enter into and monitor compliance with consent agreements, as set out in SCR 23.05.
- (4) File and pursue civil actions for violations of consent agreements.
- (5) File and pursue injunctive actions against individuals or entities engaging in the unauthorized practice of law.
- (6) Monitor the compliance of individuals and entities that have been enjoined from engaging in the unauthorized practice of law.
- (7) Delegate the duties specified in this rule to staff and counsel as the director may consider advisable.

SCR 23.05 Consent agreements.

Following investigation, if the director concludes a person or entity has engaged in the unauthorized practice of law, the director may enter into a consent agreement with the person or entity. The agreement:

- (1) May include admissions that the person or entity engaged in the unauthorized practice of law.
- (2) Shall include an agreement by the person or entity to refrain from engaging in the conduct in the future.
- (3) Shall be a contract enforceable in the name of the Office of Lawyer Regulation by civil action.
- (4) May include specific penalties for violation of the agreement.

SCR 23.06 Injunctive actions.

Following investigation, if the director concludes a person or entity has engaged in the unauthorized practice of law, the director may commence a civil action in the name of the Office of Lawyer Regulation seeking to have the person or entity enjoined from engaging in the unauthorized practice of law.

SCR 23.07 Role of Office of Lawyer Regulation and complainant.

In the process of regulating the unauthorized practice of law, the director and staff of the Office of Lawyer Regulation do not represent the complaining person, the person against whom a complaint has been made, the bar generally, or any other person or group. The director and staff of the Office of Lawyer Regulation represent the interests of the Wisconsin Supreme Court and the public in the integrity of the unauthorized practice of law regulation system in its search for the truth. A complainant is not a party to an action nor proceeding brought by the Office of Lawyer Regulation.

SCR 23.08 Cooperation with other agencies.

- (1) The Office of Lawyer Regulation shall cooperate with unauthorized practice of law regulatory bodies from other jurisdictions and may share confidential information with them.
- (2) The Office of Lawyer Regulation shall cooperate with district attorneys in the state of Wisconsin and may share confidential information with them.

Draft SCR 23 (09-12-06)

EXHIBIT B

American Bar Association
Standing Committee on Client Protection

2004 Survey of Unlicensed Practice of Law Committees

INTRODUCTION

Results of the 2004 Unlicensed Practice of Law Survey

The ABA Standing Committee on Client Protection sponsored a survey on unlicensed practice of law during 2004. Questionnaires were sent to all jurisdictions in the United States. The following 36 jurisdictions responded: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Utah, Virginia, Washington, West Virginia and Wyoming. Several jurisdictions have more than one entity responsible for UPL enforcement.

Current Enforcement Activity

Twenty-three jurisdictions actively enforce UPL regulations, although some jurisdictions indicate that insufficient funding makes enforcement difficult. Ten jurisdictions stated that enforcement is inactive or non-existent. For example, because of limited resources, California reported that it only investigates a few UPL cases per year.

The majority of responding jurisdictions has definitions for both the "practice of law" and "unauthorized practice of law". "Practice of law" definitions are established by court rule in thirteen jurisdictions, by statute in five, through case law in six, and through advisory opinions in two jurisdictions. Some jurisdictions have definitions in more than one resource, such as Idaho, which has practice definitions in a court rule, case law, and in an advisory opinion. "Unauthorized practice of law" definitions usually are found either in statutes (seven jurisdictions) or through a court rule (ten jurisdictions).

Enforcement *authority* against UPL is established by court rule in 11 jurisdictions, by statute in 14 and by a statute and court rule in ten jurisdictions. In many jurisdictions there are two or more authorities authorized to enforce UPL regulations, including states attorneys general, private individuals (PA), state bar committees/counsel, supreme court committees/commissions, and local and county attorneys. UPL enforcement in the majority of the responding jurisdictions is funded through bar association dues or lawyer assessments. Most jurisdictions either do not have a specific annual expenditure for UPL enforcement or were unaware of the exact amount. The Florida Bar leads the country in funding UPL enforcement, spending approximately \$1.4 million annually.

The penalties/sanctions for UPL violations that are available to enforcement authorities include (by number of responding jurisdictions): civil injunctions (30), criminal fines (25), prison sentence (22), civil contempt (20), restitution (15), civil fines (8), and cease and desist orders (3). Most jurisdictions have several remedies.

Fifteen jurisdictions prosecute UPL cases through state bar committees or bar counsel, while other jurisdictions (17) use attorney generals, county attorneys, or district attorneys. Ten jurisdictions have supreme court committees/commissions established to enforce UPL regulations. Many jurisdictions prosecute UPL cases through multiple entities.

Authorized Nonlawyer Practice

Twenty-one jurisdictions authorize nonlawyers to perform some legal services in limited areas. Sixteen permit legal assistants to perform some legal services under the supervision of a lawyer, seven jurisdictions permit nonlawyers to draft legal documents, eight jurisdictions allow real estate agents/brokers to draft documents for property transactions, one allows law students to perform some legal services and at least twelve jurisdictions permit nonlawyers to attend (and in some states *participate* in) administrative proceedings. However, of the jurisdictions that permit nonlawyer practice, fifteen do not regulate or license the nonlawyers.

Disbarred/Suspended Lawyers

The survey also asked questions regarding the law-related activities of disbarred lawyers. Sixteen responding jurisdictions permit disbarred lawyers to engage in law-related activities while disbarred. Usually the disbarred lawyer's conduct is regulated by court rules or case law that define the supervision necessary for the disbarred lawyer working for a lawyer.

The Future: What's on the Horizon?

Nineteen jurisdictions responded that they expect changes in UPL in the coming year. Those jurisdictions contemplate more active enforcement, an increased budget for enforcement, hiring more staff and changes in the procedures for enforcement. Six jurisdictions responded that they are in the process of adopting a definition of the unlicensed practice of law.

Robert D. Welden, Chair
Standing Committee on Client Protection
December 2004

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the unauthorized practice of law?	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
AL	Yes	Statute	No	Statute	State Bar Committee	Attorney General; County Prosecutor	Membership on the UPL Committee is voluntary	N/A
AK	Yes	Rule	Yes	Rule	Statute	Local or State Prosecutor	State, if any case is prosecuted as a criminal offense.	Unknown
AZ	Yes	Rule; Statute	Yes	Rule	Rule	See below	See Below	See Below
AR ¹	No	N/A	No	N/A	Rule	Supreme Court Committee/Commission	Funded by the Bar of Arkansas through the Arkansas Supreme Court	\$5900
CA	No	N/A	No	N/A	Statute	County Prosecutor	To extent the State Bar investigates UPL Bar dues. To he extent the county prosecutor prosecutes	The State Bar does not have a separate or special budget for UPL enforcement. The

¹ State Bar Counsel; Bd. of Certified Legal Document Preparers is also authorized to enforce the Certified Legal Document Preparer Regulations.

ⁱⁱ The cost for UPL enforcement is budgeted and assumed by the State Bar of Arizona. The cost for regulating the document preparers is paid for from certified legal document preparers fees.

ⁱⁱⁱ This is being recalculated at this time; our authority to enforce court rules regarding UPL is very new so we are adjusting our budget to reflect the type of activity we anticipate after the first year of rule being effected.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the unauthorized practice of law?	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
CO	Yes	Advisory Opinion	No	There is case law on unauthorized practice, but no all-encompassing definitions of what is and isn't authorized.	Rule	Supreme Bar Commission; Colorado Supreme Court Office of Attorney Regulation	those engaged in UPL, tax revenues. Attorney Regulation Fees.	budget is the general disciplinary budget. \$3,500
CT ²	No - case law only - fact driven	Case Law	Yes	Statute; Case Law; Advisory Opinion	Rule; Statute	County Prosecutor; Disciplinary Counsel Judicial Branch	Judicial Branch for criminal enforcement	Not specifically budgeted

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the unauthorized practice of law?	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
DE	No ^{iv}	N/A	No	N/A	Supreme Court ^v Commission	Supreme Court by DE lawyers	Annual Registration fees paid by DE Supreme Court by lawyers	N/A
DC ³	Yes	Rule; Advisory Opinion	Yes	Rule; Advisory Opinion	Rule	Supreme Court Commission	^{vi} See Below	The Court of Appeals does not have a budget for UPL enforcement.
FL ⁴	No definition per se but test established by case law	N/A	No definition per se but "defined" by case law	N/A	Rule; Statute	State Bar Counsel; State Bar Committee; State Attorney's Office	Bar dues cover bar's UPL program. State Attorney funding is from taxes	1.4M for Bar program
GA	-	-	-	-	-	-	-	-
HI ⁵	Yes	N/A	Yes	Rule;	Statue	Attorney General;	State General Fund	No specific annual budget part of

^{iv} But UPL Board Rule 4© lists "types of conduct" for "general guidelines for evaluation" run by ODC and not as definitions of the unauthorized practice of law.
^v Board on the UPL - ODC is "intake agency" (UPL Rule 4a) and does "investigations" as UPL appropriate (rule 5a)
^{vi} The Court of Appeals has no budget for UPL enforcement. The members of the Committee on UPL serve as volunteers and they contribute their time and pay expenses such as postage and copying costs.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the unauthorized practice of law	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
				Statute; Case Law		HI State Bar Association		budget- part of State Attorney General annual budget N/A
ID ⁶	Yes	Rule; Statute; Case Law	Yes	Rule; Statute; Case Law	Rule; Statute	State Bar Committee of County Prosecutor	Idaho State Bar or County Prosecutor	
IL	-	-	-	-	-	-	-	
IN ⁷	No	Case Law	No - except via Case Law	Case Law	Rule; Statute	^{vii} See Below	Budget & Prosecuting entity	Not available
IA ⁸	No	N/A	No	N/A	Rule	Supreme Court Committee/Commission	Lawyers via Assessment for Client Security/Discipline Fund.	\$17,471
KS	-	-	-	-	-	-	-	-
KY ⁹	Yes	Rule	No	N/A	Rule	State Bar Counsel	Bar Association Dues	Not available

^{vii} State Bar Counsel; State Bar Committee; Attorney General; County Prosecutor

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the unauthorized practice of law?	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
LA	Yes	Rule; Statute; Case Law	No	N/A	Statute	County Prosecutor	It is a criminal offense under La. R.S. 37:213	N/A
ME ¹⁰	Yes	Case Law	Yes	Statute	Statute	Attorney General	General Fund	^{viii} See Below
MD ¹¹	Yes	Statute; Case Law	Yes	Case Law; Many opinions of State Bar Assn Ethics Committee	Statute	State Bar Counsel; Attorney General	Grievance Commission	Not specified, Just part of duties of Bar Counsel
MD ¹²	Yes	Rule; Statute; Case Law	Yes	Rule; Statute; Case Law; A.G. Advisory Opinions	Statute	State Bar Counsel; Attorney General; By State Bar Counsel	State of Maryland	No Specific budget.
MA	-	-	-	-	-	-	-	-
MI ¹³	Yes	^{ix} See Below	No	N/A	Rule	State Bar Counsel	State Bar of Michigan – mandatory bar financed by attorney's dues	\$29,115

^{viii} No dollar earmarked- overlaps with consumer protection and white collar crime

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the <u>unauthorized</u> practice of law?	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
MN ¹⁴	Yes	Statute; Case Law	Yes	Statute; Case Law	Statute	Attorney General; County Prosecutor	Taxpayers; General budgets of offices of the county attorneys and/or State Attorney General	No specific budget
MS ¹⁵	Yes	Rule Statute Case Law	Yes	Rule; Statute; Case Law; and Advisory Opinion	Rule; Statute	^x See Below	The Mississippi Bar, with fees and expenses assessed against the defendant and collected when possible	None
MO ¹⁶	Yes	Case Law; Advisory Opinion	No	N/A	Rule; Statute; Advisory Opinion	State Bar Counsel; Attorney General; County Prosecutor	Entity enforcing the statute	\$0
MT	-	-	-	-	-	-	-	-

¹⁴ Case Law; Dressel v. Ameribank A person engages in the practice of law when he counsels or assists another in matters that require the use of legal discretion or profound legal knowledge.

¹⁵ Attorney General; County Prosecutor; The MS Bar, through its appointed Committee on UPL, under the auspices of the Supreme Court

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the unauthorized practice of law?	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
NE ¹⁷	Yes	Rule; Statute; Case Law	Yes	Rule; Statute; Case Law	Statute	Attorney General; County Prosecutor	County or State	Unknown
NV	-	-	-	-	-	-	-	-
NH	-	-	-	-	-	-	-	-
NJ	No	N/A	No	N/A	Rule; Statute	Supreme Court Committee/ Commission; Attorney General	Court or Law Enforcement Budget	Unknown
NM ¹⁸	No	Case Law ^{xi}	Yes	Rule; Statute; Case Law	Statute	Supreme Court Committee/ County Prosecutor	Currently there is little to no enforcement	N/A
NY ¹⁹	No	N/A	Yes	Statute	Statute	Attorney General; County Prosecutor	N/A	N/A
NC ²⁰	Yes	Statute	Yes	Statute	Statute	State Bar Committee	The North Carolina State Bar	\$98,839

^{xi} Case law indicates definition is fact specific on a case by case basis: See in re Chavez, 129 NM 35, 1P.3d 417 (2000).

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the unauthorized practice of law?	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
ND	-	-	-	-	Source of Enforcement Authority	Committee; County Prosecutor	State Bar	-
OH	-	-	-	-	Source of Enforcement Authority	-	-	-
OK ²¹	Yes	Advisory Opinion (R.J. Edwards v. Hert, 504 P.2d 407, TP 20(OK, 1972)	No	N/A	Rule	State Bar Counsel	Bar Association	Subsumed generally within office budget
OR ²²	Yes	Case Law	Yes	Statute	Statute	State Bar Counsel; State Bar Committee; Attorney General; County Prosecutor	N/A	N/A

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the unauthorized practice of law?	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
PA ²³	Yes	Case Law	Yes	Statute; Case Law	Statute; Case Law	Attorney General; County Prosecutor; bar associations & private individuals by private civil lawsuit without immunity.	The organization/individual who prosecutes.	N/A
RI	-	-	-	-	-	-	-	-
SC ²⁴	Yes	Statute; Case Law	See Below ^{xii}	Statute; Case Law	Statute – S.C. Code §40-5-310 & 40-5-320	Attorney General; County Prosecutor	See Below ^{xiii}	This would be part of the general budgets of the agencies responsible for enforcement

^{xii} - not really – statute which makes it a felony to practice law without being sworn and admitted in this state – Our Court has determined that the “better course is to decide what is and what is not the unauthorized practice of law in the context of an actual case or controversy.” (*In Re Unauthorized Practice of Law*, 309 S.C. 304, 422 S.E. 2d 123 (1992)).

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the unauthorized practice of law	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
SD	-	-	-	-	-	-	-	-
TN	-	-	-	-	-	-	-	-
TX	-	-	-	-	-	-	-	-
UT ²⁵	Yes	Case Law; Supreme Court rule pending	No	N/A	Rule; Formerly Legislative	State Bar Counsel; State Bar Committee; In conjunction with governing board approval	The Bar	Varies – as reasonably determined
VT	-	-	-	-	-	-	-	-

^{xiii} Good question. The AG and local prosecutors are the enforcement agencies, if their budgets permit; they cover the costs associated with criminal enforcement. The Supreme Court has encouraged interested parties to bring actions in their original jurisdiction to determine if an activity is UPL. In most cases, those actions are funded by the individual who feels that they have been harmed. Criminal enforcement can be brought by the AG or the local solicitor (prosecutor), but their budgets are dictated by state and county funding issues. The Bar has recently proposed to the Court the creation of a Supreme Court Commission on UPL which would have the authority to seek civil, injunctive relief on behalf of the citizens of South Carolina who have been victims of UPL. In addition, the Office of Disciplinary Counsel of the Supreme Court Commission on Lawyer conduct maintains jurisdiction over lawyers who have been suspended or disbarred and who continue to handle matters that are considered the practice of law.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?	Source of Definition	Does your jurisdiction have a definition of the <u>unauthorized</u> practice of law?	Source of Definition	Enforcement Against UPL	Regulatory entity authorized to enforce the UPL Regulations	Who pays for UPL Enforcement	Annual Budget for UPL Enforcement
VA ²⁶	Yes	Rule	No	N/A	Rule; Statute	State Bar Committee; Attorney General; City/County Prosecutor	The Virginia Bar	\$5000
WA ²⁷	Yes	Rule; Advisory Opinion	Yes	Statute	Rule; Statute	Supreme Court Committee / Commission; County Prosecutor	WSBA pays for non-criminal enforcement	\$75,000
WV	Yes	Rule	Yes	Rule of Professional Conduct	State Bar by-law – Approved by supreme court.	State Bar Committee	State Bar – Budget Item	Part of “committees” line item
WI	-	-	-	-	-	-	-	-
WY ²⁸	Yes	Rule	No	N/A	Rule; Statute	State Bar Committee	Wyoming State Bar	\$100

¹ Supreme Court of Arkansas UPL Committee

² Office Disciplinary Counsel

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

- ³ DC Court of Appeals Committee on UPL
- ⁴ The Florida Bar
- ⁵ Consumer Protection Committee, Hawaii State Bar Association
- ⁶ Idaho State Bar
- ⁷ Indiana Supreme Court Disciplinary Commission
- ⁸ Supreme Court Commission on the UPL
- ⁹ Kentucky Bar Association
- ¹⁰ Main Attorney General 's Office
- ¹¹ Attorney Grievance Commission of Maryland
- ¹² The Maryland Bar Center
- ¹³ State Bar of Michigan
- ¹⁴ Office of the Director of Lawyers Professional Responsibility (St. Paul, MN)
- ¹⁵ The Mississippi Bar
- ¹⁶ Missouri Office of Chief Disciplinary Counsel
- ¹⁷ UPL Committee of Nebraska
- ¹⁸ New Mexico State Bar, CAAP
- ¹⁹ New York State Bar Association
- ²⁰ Authorized Practice Committee of the North Carolina State Bar
- ²¹ Oklahoma Bar Association
- ²² Oregon State Bar
- ²³ Pennsylvania Bar Association
- ²⁴ South Carolina Bar
- ²⁵ Utah State Bar
- ²⁶ The Virginia State Bar
- ²⁷ Washington State Bar Association
- ²⁸ Wyoming State Bar

Copyright © 2004 American Bar Association. All rights reserved. Nothing contained in these charts is to be considered the rendering of legal advice. The charts are intended for educational and informational purposes only. We make every attempt to keep these charts as accurate as possible. If you are aware of any inaccuracies in the charts, please send your corrections or additions and the source of that information to John Holtaway, (312) 988-5298, jholtaway@staff.abanet.org.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies/Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may be engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdiction position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in its UPL regulations, enforcement activity or authority?
AL	N/A	Civil injunction; Civil contempt; Civil fine; Criminal fine	Active	No	N/A	See Below	No	Rule	No
AK	N/A	Criminal fine; prison sentence	Non-existent	Yes	No	Attend administrative proceedings; Give legal advice; Negotiate legal matters.	Yes - But very limited, see bar rule 15(b) and (c).	Rule	Yes - Alaska will attempt another effort to have the supreme court adopt a UPL definition for injunctive purposes.
AZ	Salaries/benefits; equipment/supplies; travel/education/training	Civil injunction; civil contempt; restitution	Active- Our ability to enforce UPL rules is relatively new; we began to file cases in April 2004.	Yes - Legal Asst./Paralegals under supervision of an attorney; Document preparers.	Yes. State Bar; Supreme Court; Other regulatory Entity/Board.	See Below	Yes	Rule	No- Because the UPL regulatory procedure is relatively new, the Bar is continuing to monitor its effectiveness and will probably offer changes as required.

ⁱ Attend administrative proceedings; Attend real estate closings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings.
ⁱⁱ There are exceptions to Arizona Supreme Court Rule 31 that provides only that persons who are members of the State Bar of Arizona may practice law. These exceptions permit limited types of conduct and appearances by nonlawyers in certain administrative or ADR proceedings under special limited circumstances.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies /Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
AR ⁱⁱⁱ	Equipment/Supplies; Travel/Education/ Training	Civil Injunction; Civil Contempt; Cease and Desist order	Active	ⁱⁱⁱ See Below	No	Participate in state administrative proceedings.	No	Rule	The Committee is considering complete revision of its operating procedures.
CA	Yes - Salaries; space; equipment/ supplies; travel/education/ training.	Civil Injunction; Criminal Fine; Prison; Restitution	^{iv} See Below	Yes - Legal Assistants/ Paralegals under the supervision of an attorney; Document preparers;	No	^v See Below	Yes	Rule	No
CO	No	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	Active	Yes - Legal Assistants/ Paralegals under the supervision of an attorney	No	See Below ^{vi}	Yes	Rule; Advisory Opinion	Yes - We are considering a rule definition of practice of law revisions to enforce, other ideas

ⁱⁱⁱ Yes - Legal Assistants/Paralegals under the supervision of an attorney; Document preparers - only in bankruptcy through federal court sanctioned activity
^{iv} Not Active - we are limited to investigating UPL at the State Bar and turning the investigation over to law enforcement for prosecution. Because of resource limitations we investigate only a few cases each year.

^v Attend administrative proceedings; Attend real estate closings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies/Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may be engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdiction position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in its UPL regulations, enforcement activity or authority?
CT ²	N/A	^{vii} See Below	Active	^{viii} See Below	No – except foreign legal consultants who are licensed by bar examining committee of judicial branch	^{ix} See Below	Yes	As it is not expressly forbidden they have same rights as any other member of the public.	Bar association is beginning to discuss whether some rules/statutes should be changed- but bar is split - ½ are against expansion, ½ want it wide open.

^{vi} Attend administrative proceedings; Attend real estate closings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings.
^{vii} If authorized by the administrative Agency or ADR rules.
^{viii} Civil Injunction; Civil Contempt; Criminal Fine; Prison; Often includes other criminal charges -- larceny fraud.
^{ix} Yes – Legal Technicians; Legal Assistants/ Paralegals under the supervision of an attorney; Document preparers; Bank trust officers, accountants, foreign legal aid.
 Attend administrative proceedings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings; bank trust officers can prepare tax returns, probate paperwork.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies/Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may be engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdiction position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in its UPL regulations, enforcement activity or authority?
DE	N/A	Other ^x	N/A	No – not for “practice of law” – law related activities permitted with preference for direct supervision by lawyer.	No	No	Yes- but frequently Supreme Court sanctions order prohibits contact with clients/witness as paralegal or law clerk and even if not explicit, such contact is discouraged.	Case Law	Yes – Ongoing review/consideration re: definition of UPL; remedies and procedures for enforcement.
DC ³	N/A	Civil Injunction; Restitution	^x See Below	Yes – Document preparers; Exceptions for nonlawyers to the general rule that only lawyers can engage in the practice of law are set forth in Rule 49(c).	Yes – Federal and D.C. agencies to extent they permit nonlawyers to practice before them; Other Regulatory Entity/Board	^{xii} See Below	The D.C. disciplinary system, not the Committee on UPL enforces restrictions on activity by disbarred and suspended lawyers.	The D.C. disciplinary system enforces restrictions on activity by disbarred and suspended lawyers.	Yes – The D.C. Bar has established on multijurisdictional practice to consider changes to Rule 49 in light of their changes to the ABA Model Rules relating to multijurisdictional practice.

^x Supreme court order of voluntary compliance (UPL Rule 14) or determining UPL has occurred plus costs. Order is enforceable thru contempt proceeding before Supreme Court UPL (Rule 19)

^{xii} Active- The Committee of UPL regularly investigates individuals who may have engaged in the unauthorized practice of law. Most investigations are resolved by consent agreements.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies /Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may be engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
FL	Salaries/benefits; Space; Equipment/supplies; Travel/education /training; All functions of bar UPL staff and committees	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	Active	^{xiii} See Below	Yes - (Regulated) State Bar; Supreme Court.	^{xiv} See Below	Yes - law type activities only	Rule; Case Law	No - Criminal penalty recently raised to felony - if bill signed, becomes effective Oct. 1, 2004.
GA	-	-	-	-	-	-	-	-	-
HI	N/A	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	Active - State Attorney General's office has, in recent years actively investigated and prosecuted UPL cases	See Hawaii Revised Statutes 605-13 and 633-28	No	N/A	No	Rule	Yes - The Hawaii State Legislature, Hawaii State Bar Assn and Hawaii Supreme Court Ethics 2000 Committee are all addressing UPL Issues as well as the need for a practice of law definition.

^{xii}

Attend administrative hearing; Pretrial activities; Give legal advice; Negotiate legal matters; Appear in court; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings; The scope of permitted practice by nonlawyers (for example, by employees, or before federal and local administrative agencies) is set forth in the exceptions in Rule 49(c).

^{xiii}

Yes - (to a limited extent) Yes -Legal technicians; Legal Assistants/ Paralegals under the supervision of an attorney; Certain licensed individuals may engage in certain activities

^{xiv}

Attend administrative proceedings (if qualified by hearing officer); Attend real estate closings; Participate in state administrative proceedings.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies/Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may be engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in its UPL regulations, enforcement activity or authority?
ID ^s	Salaries/Benefits; Space; Equipment/supplies; Travel/education/training	Civil Injunction; Civil Contempt; Criminal Fine; Prison; Restitution	Active – Not as active as other disciplinary actions.	Legal technicians; Legal Assistants/ Paralegals under the supervision of an attorney; Document preparers; Depends on extent of work done	No	Attend administrative proceedings; Participate in alternative dispute resolution proceedings;	No – They cannot practice law	N/A	Yes – Idaho Rules of Professional Conduct 5.5 was revised and the revision will be effective on July 1, 2004.
IL	-	-	-	-	-	-	-	-	-
IN ⁷	N/A	Civil Injunction; Civil Contempt; Criminal Fine; Prison; Restitution	State Bar has filed a few cases. Disciplinary Commission has filed a few or resolved	No – unless authorized by federal law.	N/A	Attend real estate closings	No	Rule	Yes – State bar proposal pending (or soon to be submitted) to state submitted court.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies /Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may be engaged in the following:	May disbarred or suspended lawyers engage in a law-related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
LA ^{xv}	Salaries/Benefits; Equipment/ Supplies Travel/education/ Training; Investigation and Prosecution.	Civil Injunction	informally. ^{xv} See Below	Yes - Legal Assistants/ Paralegals under the supervision of an attorney; Document preparers;	No	Attend administrative proceedings; Attend real estate closings; Participate in state administrative proceedings.	No	Case Law; Advisory Opinion	We are in the process of hiring a ¼ time investigator.
KS	-	-	-	-	-	-	-	-	-
KY ²	N/A	Civil Contempt	Active - We actively investigate the UPL and routinely send out cease and desist letters.	No	N/A	N/A	No	Advisory Opinion	No
LA	N/A	Criminal Fine; Prison	The Bar does not enforce UPL unless by a suspended or disbarred	No	No	N/A	No	Rule; S.Ct. Rule 19	No

^{xv} Active - we have a commission of 25, meet 6x yearly, open approx. 3 dozen files per year, obtain "cease and desist" agreements in most cases and prosecute otherwise w/ assistance of Attorney General who provides one attorney on an as needed basis.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies /Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practices permitted, is it regulated/limited? By?	Nonlawyers may engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
ME ¹⁰	N/A	Criminal Fine; Prison	Active	^{xvi} See Below	No	^{xvii} See Below	No	Rule	No
MD ¹¹	N/A	^{xviii} See Below	Active	No	N/A	N/A	No	Rule; Case Law	No
MD ¹²	N/A	Civil Injunction; Criminal Fine; Prison; Civil Suit for misrepresentation/ deceit.	Active; Bar Counsel	Yes - Legal Assistants/ Paralegals under the supervision of an attorney.	Yes. Court of Appeals.	N/A	No	Statute	Contemplating but no direct action underway.
MA	-	-	-	-	-	-	-	-	-
MI ¹³	Equipment/supplies; Travel/education/training	Civil Injunction; Civil Contempt	Active	^{xix} See Below	No	^{xx} See Below	Yes	N/A	Yes - The State Bar of Michigan plans on directing more resources to educational / outreach efforts to address UPL problems.

^{xvi} Yes - Maine's statute makes general exceptions especially for persons represent; State agencies in certain circumstance
^{xvii} Attend administrative proceedings; Appear in court; Participate in state administrative proceedings.
^{xviii} Civil injunction; Criminal fine; Prison (if prosecuted by local state's attorney

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies/Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may be engaged in the following:	May disbarred or suspended lawyers engage in a law-related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in its UPL regulations, enforcement activity or authority?
MN ¹⁴	N/A	Civil Injunction; Criminal Fine; Prison; Restitution	Not Active	^{xxi} See Below	No	Prepare pleadings/wills /other legal documents	Yes	Rule; Case Law	Yes – Possible changes to Rule 5.5 as part of MJP review
MS ¹⁵	N/A	Civil Injunction; Criminal Fine; Prison; Restitution	^{xxii} See Below	No	N/A	N/A	No	Rule; Statute; Case Law; Advisory Opinion; See website for Advisory Opinions www.msbar.org	No
MO ¹⁶	N/A	Civil Injunction; Criminal Fine	Not Active	Yes – Legal Assistants/ Paralegals under the supervision of an attorney	No	^{xxiii} See Below	Yes	Case Law	^{xxiv} See Below

^{xix} Yes – Legal Assistants/ Paralegals under the supervision of an attorney; Non-lawyer representation in certain administrative agency proceedings

^{xx} Attend administrative proceedings; Participate in state administrative proceedings; Non-lawyers may appear on behalf of third parties in administrative agency proceedings if the legislature has so authorized. Under the new Dressel decision, non-lawyers may complete or draft documents that do not require the use of legal discretion or profound legal knowledge.

^{xxi} Yes – Legal Assistants/ Paralegals under the supervision of an attorney; law student practice under supervision of licensed attorney.

^{xxii} The UPL Committee for the Mississippi Bar investigates claims and if it is determined the UPL has occurred, will issue a Cease and Desist Order and notify the appropriate District or County attorney of the activity for that office to prosecute under their Statutory Authority if they so choose.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies /Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdiction position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
MT	-	-	-	-	-	-	-	-	-
NE ^{xvii}	N/A	^{xv} See Below	^{xvii} See Below	No	N/A	^{xviii} See Below	No	Rule; Case Law	Yes -- We are making a concise definition.
NV	-	-	-	-	-	-	-	-	-
NI	-	-	-	-	-	-	-	-	-
NJ	N/A	Civil Injunction; Criminal Fine; Prison; Cease and desist agreements	Active	Yes - Legal Assistants/ Paralegals under the supervision of an attorney	Yes - Supreme Court	Attend administrative proceedings; Appear in court; Participate in state administrative proceedings; Participate in alternative dispute resolution	No	Rule	No

^{xliii}

^{xliii} Attend administrative proceedings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings.

^{xliii} Yes - We would like to take enforcement actions, but currently lack the funds to do so. We have recently proposed a fee increase that would allow us to direct a portion of our budget to the prosecution of the UPL and would allow us to hire additional staff for investigation of these matters.

^{xlv} Civil Injunction; Civil contempt; Civil fine; Criminal fine.

^{xlv} We have been slack in Nebraska but that is changing to being more active

^{xlvii} Attend Administrative proceedings; Attend real estate closings; Participate in State administrative proceedings; Participate in alternative dispute resolution proceedings.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies/Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
NM ¹⁸	N/A	Civil Injunction; Criminal Fine; Prison; possible disciplinary action taken against attorneys who are not licensed to practice in NM.	Not Active ^{xxviii}	No	Yes- Supreme Court	proceedings. Attend administrative proceedings; Attend real estate closings Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings.	No	Rule	Yes - Currently our State Bar is in the process of drafting a definition of "practicing law" and also reviewing enforcement practices and how to make the rules/statute more effective.
NV ¹⁹	N/A	Civil Injunction; Criminal Fine; Prison	Not Active	Yes - Legal Assistants/ Paralegals under the supervision of a lawyer ^{xxxi}	No	N/A	No	Rule; Statute; Case Law	No
NC ²⁰	xxix See Below	xxx See Below	Active	See Below	No	Attend real estate closings	Yes	Rule; Statute	No

^{xxviii} The NM State Bar does investigate UPL complaints through its Client Attorney Assistance Program (CAAP). CAAP investigates & if appropriate, sends "cease and desist" letters.

^{xxix} Salaries/Benefits; Space; Equipment/ supplies; Travel/ education/training;

^{xxx} Civil Injunction; Civil Contempt; Criminal Fine; Prison; Restitution

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies/Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations enforcement activity or authority?
ND	-	-	-	-	-	-	-	-	-
OH	-	-	-	-	-	-	-	-	-
OK ²¹	N/A	Civil Injunction; Civil Contempt	Not Active	No	No	Attend administrative proceedings	Yes -- as a clerk or paralegal	Case Law; Advisory Opinion	Perhaps -- We contemplate greater enforcement of UPL but it's not a priority given budgetary and personnel constraints.
OR ²²	N/A	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	Active	Yes -- Legal Assistants/ Paralegals under the supervision of a lawyer	Yes -- Bankruptcy court regulates document preparers.	Participate in alternative dispute resolution proceedings	Yes -- But only to the same extent a non-lawyer could, i.e. acting under the direction of a licensed lawyer or without supervision as a scrivener.	Case Law	No
PA ²³	-	Civil Injunction;	Attorney General's	No	-	-	Yes -- under supervision of a	Rule	No

^{XXI} Yes -- Legal Assistants/ Paralegals under the supervision of an attorney

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies /Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
RI	-	Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	Office, various D.A.'s various County Bar Associations, private individuals	-	-		licensed lawyer (not with anyone previously associated with); must be "non-attorney" work	-	-
SC ^{xxiv}	N/A	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	xxiii See Below	No. UPL Rules, lists some exceptions to UPL regulations	N/A	xxiii See Below		-	-
SD	-	-	-	-	-	-	-	-	-
TN	-	-	-	-	-	-	-	-	-

^{xxiii} Not Active- sporadic. There have been some UPL actions brought by either the AG or local solicitors Office(and one recent disciplinary action), but they are probably the exception rather than the rule. Enforcement is somewhat limited

^{xxiv} Participate in state administrative proceedings -- if allowed by agency; Participate in alternative dispute resolution proceedings -- Court annexed ADR program rules specify that non-lawyers who are certified may serve as mediators in family court; certification is set by ADR rule and requires licensing in another profession as well as training -- limited number of non-lawyer professions eligible for certification for court annexed ADR program -- community mediation centers may use non-lawyers for their programs.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies /Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
TX	-	-	-	-	-	-	-	-	-
UT ²⁵	No	Civil Injunction; Civil Contempt only if repeated offenses	Active	No	N/A	Attend administrative proceedings	Attend real estate closings; Participate in state administrative proceedings; participate in alternative dispute resolution proceedings	Yes	Policy
VT	-	-	-	-	-	-	-	-	-
VA ²⁶	This amount is for expenses of the Standing Committee on the UPL. These expenses include miscellaneous and travel expenses for committee members for meetings.	Civil Injunction; Criminal fine; Prison	Active	No	N/A	Attend real estate closings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings	Yes	Rule	Yes - The Bar is organizing a task force to study multijurisdictional practice. As part of this stud, the task force will be reviewing UPL rules and enforcement as part of this study.

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies /Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may be engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
WA ²⁷	Salaries/benefits; space; Equipment/supplies; Travel/education/ Training; Board expenses.	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution; Cease and desist agreements	Active - Practice of law board actively investigates complaints seeks cease and desist agreements, refers cases to prosecuting attorneys.	Yes - Document prepares; Limited license to practice law by real estate closing officers	Yes- Other Regulatory entity Board	Attend administrative proceedings; Attend real estate closings; Participate in alternative dispute resolution proceedings	No	Rule; Case Law	No
WV	No	Civil injunction	Active	Yes - Legal Assistants/Paralegal under supervision of an attorney.	Yes - regulated; State Bar.	Participate in alternative dispute resolution proceedings.	No	Rule; Case law.	No
WI	-	-	-	-	-	-	-	-	-

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies /Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
WY ²⁵	Equipment/supplies; phone calls	Civil Injunction; Civil Contempt	Active	No	N/A	N/A	No	Rule	No

¹ Supreme Court of Arkansas UPL Committee
² Office of Disciplinary Counsel - Connecticut
³ Office Disciplinary Counsel
⁴ The Florida Bar
⁵ Consumer Protection Committee, Hawaii State Bar Association
⁶ Idaho State Bar
⁷ Indiana Supreme Court Disciplinary Commission
⁸ Supreme Court Commission on the UPL
⁹ Kentucky Bar Association
¹⁰ Main Attorney General 's Office
¹¹ Attorney Grievance Commission of Maryland
¹² The Maryland Bar Center
¹³ State Bar of Michigan
¹⁴ Office of the Director of Lawyers Professional Responsibility (St. Paul, MN)
¹⁵ The Mississippi Bar
¹⁶ Missouri Office of Chief Disciplinary Counsel
¹⁷ UPL Committee of Nebraska
¹⁸ New Mexico State Bar, CAAP
¹⁹ New York State Bar Association
²⁰ Authorized Practice Committee of the North Carolina State Bar

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

-
- ²¹ Oklahoma Bar Association
 - ²² Oregon State Bar
 - ²³ Pennsylvania Bar Association
 - ²⁴ South Carolina Bar
 - ²⁵ Utah State Bar
 - ²⁶ The Virginia State Bar
 - ²⁷ Washington State Bar Association
 - ²⁸ Wyoming State Bar

Copyright © 2004 American Bar Association. All rights reserved. Nothing contained in these charts is to be considered the rendering of legal advice. The charts are intended for educational and informational purposes only. We make every attempt to keep these charts as accurate as possible. If you are aware of any inaccuracies in the charts, please send your corrections or additions and the source of that information to John Holtaway, (312) 988-5298, jholtaway@staff.abanet.org.

EXHIBIT C

STATE OF
WASHINGTON

EXHIBIT C (STATE OF WASHINGTON)

GENERAL RULE 24

DEFINITION OF THE PRACTICE OF LAW

(a) General Definition: The practice of law is the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person(s) which require the knowledge and skill of a person trained in the law. This includes but is not limited to:

- (1) Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration.
- (2) Selection, drafting, or completion of legal documents or agreements which affect the legal rights of an entity or person(s).
- (3) Representation of another entity or person(s) in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution process or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review.
- (4) Negotiation of legal rights or responsibilities on behalf of another entity or person(s).

(b) Exceptions and Exclusions: Whether or not they constitute the practice of law, the following are permitted:

- (1) Practicing law authorized by a limited license to practice pursuant to Admission to Practice Rules 8 (special admission for: a particular purpose or action; indigent representation; educational purposes; emeritus membership; house counsel), 9 (legal interns), 12 (limited practice for closing officers), or 14 (limited practice for foreign law consultants).
- (2) Serving as a courthouse facilitator pursuant to court rule.
- (3) Acting as a lay representative authorized by administrative agencies or tribunals.
- (4) Serving in a neutral capacity as a mediator, arbitrator, conciliator, or facilitator.
- (5) Participation in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements.
- (6) Providing assistance to another to complete a form provided by a court for protection under RCW chapters 10.14 (harassment) or 26.50 (domestic violence prevention) when no fee is charged to do so.
- (7) Acting as a legislative lobbyist.

(8) Sale of legal forms in any format.

(9) Activities which are preempted by Federal law.

(10) Serving in a neutral capacity as a clerk or court employee providing information to the public pursuant to Supreme Court Order.

(11) Such other activities that the Supreme Court has determined by published opinion do not constitute the unlicensed or unauthorized practice of law or that have been permitted under a regulatory system established by the Supreme Court.

(c) Non-lawyer Assistants: Nothing in this rule shall affect the ability of non-lawyer assistants to act under the supervision of a lawyer in compliance with Rule 5.3 of the Rules of Professional Conduct.

(d) General Information: Nothing in this rule shall affect the ability of a person or entity to provide information of a general nature about the law and legal procedures to members of the public.

(e) Governmental agencies: Nothing in this rule shall affect the ability of a governmental agency to carry out responsibilities provided by law.

(f) Professional Standards: Nothing in this rule shall be taken to define or affect standards for civil liability or professional responsibility.

[Adopted effective September 1, 2001; amended effective April 30, 2002.]

**GENERAL RULE 25
PRACTICE OF LAW BOARD**

(a) Purpose. The purpose of this rule is to create a Practice of Law Board in order to promote expanded access to affordable and reliable legal and law-related services, expand public confidence in the administration of justice, make recommendations regarding the circumstances under which non-lawyers may be involved in the delivery of certain types of legal and law-related services, enforce rules prohibiting individuals and organizations from engaging in unauthorized legal and law-related services that pose a threat to the general public, and to ensure that those engaged in the delivery of legal services in the state of Washington have the requisite skills and competencies necessary to serve the public.

(b) Appointment. The Practice of Law Board shall consist of 13 members, at least four of whom shall be non-lawyers. The appointments shall be made by the Supreme Court after considering nominations from the Board of Governors of the Washington State Bar Association and other interested people and organizations. The members shall be appointed to staggered 3-year terms of 3 years and no member may serve more than 2 consecutive full 3-year terms. Any vacancy shall be filled for the unexpired term. The Supreme Court shall annually designate a chair and vice-chair, who shall be members of the Board.

(c) Powers of the Practice of Law Board.

(1) Advisory Opinions. On request of any person, or in connection with the consideration of any complaint or any investigation made on its own initiative, the Board may render advisory opinions relating to the authority of non-lawyers to perform legal and law-related services and arrange for their publication. No opinion shall be rendered if, to the Board's knowledge, the subject matter either involves or might affect a case or controversy pending in any court. An advisory opinion shall be issued by the Board in writing and shall be transmitted to the person making the inquiry. At the direction of the Board, an opinion may be published in the Washington State Bar News. Published opinions shall not, insofar as practicable, identify the party or parties making an inquiry, or the complainant or respondent.

(2) Complaints. The Board shall have jurisdiction over and shall inquire into and consider complaints alleging the unauthorized practice of law by any person or entity in accordance with the procedures outlined in this rule.

(3) Investigation. The Board may, on its own initiative, and without any complaint being made to it, investigate any condition or situation of which it becomes aware that may involve the unauthorized practice of law.

(4) Recommendations to the Supreme Court Regarding the Provision of Legal and Law-Related Services by Non-Lawyers. On request of the Supreme Court or any person or organization, or on its own initiative, the Board may recommend that non-lawyers be authorized to engage in certain defined activities that otherwise constitute the practice of law as defined in GR 24. In forwarding a recommendation that non-lawyers be authorized to engage in certain legal or law-related activities that constitute the practice of law as defined in GR 24, the Board shall determine whether regulation under authority of the Supreme Court (including the

establishment of minimum and uniform standards of competency, conduct, and continuing education) is necessary to protect the public interest. Any recommendation that non-lawyers be authorized to engage in the limited provision of legal or law-related services shall be accompanied by a determination:

(A) that access to affordable and reliable legal and law-related services consistent with protection of the public will be enhanced by permitting non-lawyers to engage in the defined activities set forth in the recommendation;

(B) that the defined activities outlined in the recommendation can be reasonably and competently provided by skilled and trained non-lawyers;

(C) if the public interest requires regulation under authority of the Supreme Court, such regulation is tailored to promote access to affordable legal and law-related services while ensuring that those whose important rights are at stake can reasonably rely on the quality, skill and ability of those non-lawyers who will provide such services;

(D) that, to the extent that the activities authorized will involve the handling of client trust funds, provision has been made to ensure that such funds are handled in a manner consistent with RPC 1.15A and APR 12.1, including the requirement that such funds be placed in interest bearing accounts, with interest paid to the Legal Foundation of Washington; and

(E) that the costs of regulation, if any, can be effectively underwritten within the context of the proposed regulatory regime. Recommendations to authorize non-lawyers to engage in the limited practice of law pursuant to this section shall be forwarded to the Washington State Board of Governors for consideration and comment before transmission to the Supreme Court. Upon approval of such recommendations by the Supreme Court pursuant to the procedures set out in GR 9, those who meet the requirements and comply with applicable regulatory and licensing provisions shall be deemed to be engaged in the authorized practice of law.

(d) Expenses of the Practice of Law Board. The Practice of Law Board shall be supported through annual commitments from the Washington State Bar Association and through a portion of other licensing fees established by the Supreme Court for non-lawyers authorized to engage in the regulated practice of law. The Board shall be administered and staffed by the Washington State Bar which shall pay all expenses reasonably and necessarily incurred by the Board, pursuant to a budget approved by the Board of Governors. Members of the Board shall not be compensated for their services, but shall be reimbursed for their necessary expenses incurred in connection with the Board in a manner consistent with the Association's reimbursement policies.

(e) Records. All records of the Board shall be filed and maintained at the principal office of the Association.

(f) Procedure.

(1) Committees. The Board may establish such committees as the membership may deem necessary and appropriate to the performance of its assigned tasks.

(2) Quorum. A majority of the Board shall constitute a quorum. The chairperson of the Board may appoint temporary members of the Board or a committee when a member is disqualified or unable to function on a specific matter for good cause.

(3) Action by Board. The full jurisdiction and authority of the Board, as provided in this rule, may be exercised by a committee, except that (1) no advisory opinion may be given without the approval of a majority of the Board; (2) no determination of the unauthorized practice of law by a respondent and referral of a matter to a law enforcement or other agency may be made without the approval of a majority of the Board; and (3) the action of a committee on any matter shall be subject to review and the approval or disapproval of the Board.

(4) Formal Complaint Procedure.

(A) Preliminary Investigation. The investigation or review of a complaint shall be promptly instituted by the Board or by a member thereof designated by the chair of the Board. If a complaint has been filed, the investigating member shall interview the complainant and respondent and shall conduct such further investigation as is deemed appropriate.

(B) Report and Written Agreement. Upon the conclusion of an investigation of a complaint, a report shall be made to the Board. If, after consideration of the report, the Board concludes that there has been no unauthorized practice of law, the complaint shall be dismissed and the Board shall so notify the complainant and the respondent in writing and shall close the file in the matter. If the Board concludes that there has been unauthorized practice of law, the Board shall attempt to persuade the respondent to enter into a written agreement to refrain from such conduct in the future. The written agreement may include a stipulation to penalties in the event of continued violation.

(C) Pending Controversy. The Board may defer investigation if, to the Board's knowledge, the conduct complained of is the subject matter of or might affect a case or controversy pending in any court.

(D) Informal Disposition. The Board may attempt to arrive at an amicable disposition of any matter within its jurisdiction with the respondent. At any time during the pendency of a matter before it, the Board may conduct an informal conference with the respondent. At the Board's discretion, an electronic recording or written transcription of the proceeding may be made. A respondent subject to an informal conference may be represented by counsel. After a finding by the Board of the unauthorized practice of law, the Board shall endeavor to have the respondent enter into a written agreement to refrain in the future from such conduct. If the respondent declines to enter into a written agreement pursuant to this rule, the Board shall refer the matter to an appropriate law enforcement or other agency in accordance with this rule.

(g) Petitions for Review.

(1) Notice. Within 20 days after an opinion is published, or within 30 days after any final action of the Board other than the publication of any opinion, any aggrieved member of the bar, bar association, person or entity may seek review thereof by serving on the Board a notice of petition for review by the Supreme Court and by filing the original notice with the Clerk of the

Supreme Court. The notice shall set forth the petitioner's name and address and, if represented, the name and address of counsel. The notice shall designate the action of the Board sought to be reviewed and shall concisely state the manner in which the petitioner is aggrieved.

(2) Procedure. Petitions for review to the Supreme Court shall comply with the Rules for Appellate Procedure.

(3) Final Determination. The final determination of a petition for review may be either by written opinion or by order of the Supreme Court and shall state whether the opinion or the action of the Board is affirmed, reversed or modified or shall provide for such other final disposition as is appropriate.

(h) Referral to Enforcement Agency.

(1) Referral. When the Board concludes from its preliminary investigation, or from the failure of an informal conference as provided in these rules, that an amicable disposition of any matter within its jurisdiction cannot be effected with the respondent, it shall, based upon the nature of the complaint, the relief sought, and the facts as then known, refer the matter to the law enforcement or other agency the Board determines is best suited to conduct an investigation and any prosecution of such matter.

(2) Contents of File. Upon making a determination that an amicable disposition of a matter cannot be effected, and that the matter should be referred to a particular law enforcement or other agency, the Board shall send such agency the original complaint, response, evidence or other proof, investigative report and, if an informal conference has been conducted, a transcript of such proceedings. The Board shall retain copies of all such documents for its file.

(3) Notice to Complainant. Upon referring a matter to a law enforcement or other agency, the Board shall notify the complainant of such action in writing.

(i) Immunity from Suit.

(1) The members and staff of the Board shall be absolutely immune from suit, whether legal or equitable in nature, for any conduct in the performance of their official duties.

(2) Persons who bring allegations concerning any individual or entity to the Board shall be immune from suit, whether legal or equitable in nature, for all communications to the Board or to its staff.

(j) Regulations. The Board may adopt regulations pertinent to these powers subject to the approval of the Supreme Court.

[Adopted effective September 1, 2001; September 1, 2006.]

PRACTICE OF LAW BOARD
REGULATIONS

REGULATION 1. PURPOSE

The purpose of these regulations is to establish procedures for the Practice of Law Board (POL Board) in order to carry out its purposes and exercise its powers pursuant to General Rule 25 (GR 25).

REGULATION 2. PRACTICE OF LAW

General Rule 24 (GR 24), Definition of the Practice of Law, including any amendments, provides the framework by which the POL Board will carry out its purposes and exercise its powers as set forth in GR 25.

REGULATION 3. ESTABLISHMENT OF THE BOARD

A. Board Members. The POL Board shall consist of 13 members (Member[s]) appointed by the Supreme Court of the State of Washington (Supreme Court) at least four of whom shall be non-lawyer Washington residents and the remainder of whom shall be lawyers licensed to practice law in Washington. Appointments to the POL Board shall be made by the Supreme Court after considering nominations from the WSBA Board of Governors (WSBA Board) and any other interested people or organizations.

B. Member Terms. The Members shall initially be appointed to staggered terms of one to three years. Thereafter, appointments shall be for three-year terms. No Member may serve more than two consecutive three-year terms.

C. Resignation. A member may resign from the POL Board by letter addressed to the POL Board and the Supreme Court with resignation to be effective two days following the date of the letter or any effective date thereafter which may be specified in the letter.

D. Vacancies. A membership vacancy shall be deemed to occur on the resignation of a Member or upon declaration of a vacancy by the Supreme Court following any request to the Supreme Court by the POL Board for the reasons set forth in section O below, or if a Member has three consecutive unexcused absences from regular POL Board meetings or is not present at more than a majority of the POL Board meetings during any 12-month period as determined by the chairperson. A membership vacancy shall be filled by the Supreme Court for the unexpired term.

E. Administration of Board. The Washington State Bar Association (WSBA), in consultation with the POL Board, shall provide the POL Board with an administrator (Board Administrator) and any additional staff support as designated by the Executive Director of the WSBA. The Board Administrator shall not be entitled to vote on POL Board matters.

F. Funding and Expenses. The POL Board shall prepare an annual budget to be submitted for approval and on a schedule set by the WSBA Board of Governors. The WSBA shall pay all expenses reasonably and necessarily incurred by the POL Board pursuant to the budget and the expense policy of the WSBA. Funding for the POL Board shall be provided by annual commitments from the WSBA and through a portion of other licensing fees established by the Supreme Court.

G. Officers. The Supreme Court shall annually designate a chairperson and a vice-chairperson from among the POL Board membership.

H. Regular Meetings. The POL Board shall meet as necessary to complete its business not less than once per year as determined by the POL Board or upon call of the chairperson.

I. Regular Meeting / Agenda Notice. The POL Board may file with the Code Reviser a schedule of the time and place of regularly scheduled meetings in January of each year for publication in the Washington State Register. The POL Board shall post an agenda for each regular meeting on the Administrative Office of the Courts website or the WSBA website at least seven days prior to the meeting.

J. Special Meetings. A special meeting of the POL Board may be called at any time by the chairperson or by a majority of the POL Board membership by delivering written notice personally, by mail, or by e-mail to each Member at least two business days before the time of such meeting and by providing notice of the special meeting to the public on the Administrative Office of the Courts website or the WSBA website.

K. Voting. Each Member shall be entitled to one vote on each matter submitted to a vote at a meeting of the POL Board. A majority vote of the Members present at a meeting at which a quorum exists shall, unless a greater vote is required by other provisions of these regulations or by GR 25, decide any issue submitted.

L. Quorum. A majority of the Members shall constitute a quorum. The chairperson may appoint temporary members of the POL Board (or any designated committee) from among former members of the POL Board when a Member is disqualified or unable to function on a specific matter, for good cause. If less than a quorum is present at a meeting, a majority of the Members present may adjourn the meeting and continue it to a later date and time upon notice. At any reconvened meeting at which a quorum is present, any business may be transacted which might have been transacted at the adjourned meeting. Members present at a properly called meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum.

M. Action by Communication Equipment. The Members or any designated committee may participate in a meeting of the POL Board or such designated committee by means of a conference phone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time, and participation by such means will constitute presence in person at a meeting.

N. Action Without a Meeting. Any action required or permitted to be taken at a POL Board meeting in Executive Session may be taken without a meeting if a written consent setting forth

the action taken or to be taken is signed by each of the Members. Any such written consent (including facsimile and digital signatures) shall be inserted in the minute book as if it were the minutes of a POL Board meeting in Executive Session. Further, such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed for the public record.

O. Removal of a Member. The POL Board may request the Supreme Court to declare a membership vacancy with respect to any Member whose removal from the POL Board would, upon a two-thirds vote of the POL Board excluding the affected Member, be in the best interest of the POL Board; however, such action may only be taken by the POL Board at a regular or special meeting following notice of such proposed action.

P. Committees. The POL Board may establish such committees as the POL Board deems necessary and appropriate with each committee (designated committee) having a specified function determined by the POL Board and having the full jurisdiction and authority of the POL Board as provided in GR 25, except that: 1) no advisory opinion may be issued without the approval of the POL Board; 2) no determination of the unauthorized practice of law by a respondent and referral of a matter to a law enforcement or other agency may be made without the approval of the POL Board; and 3) the action of a designated committee on any matter shall be subject to review and approval/disapproval of the POL Board. The chairperson shall designate a committee chair for each designated committee to serve for a one-year term.

Q. Records. The Board Administrator shall maintain minutes of the POL Board and its designated committees, deliberations, recommendations, and decisions. All records of the POL Board and its committees shall be filed and maintained at the principal office of the WSBA.

R. Open Meeting and Records. All records, files, meetings and proceedings of the POL Board and its designated committees shall be open and public, except that the POL Board may meet in executive session and records and files may be made confidential where the preservation of confidentiality is desirable or where public disclosure might result in the violation of individual rights or in unwarranted private or personal harm. All discussions of particular complaints and investigations will be held in Executive Session. Nothing in these regulations shall be construed to deny access to relevant information by professional licensing or discipline agencies, or other law enforcement authorities, as the Board shall authorize.

S. Public Participation. The chairperson or the chair of any designated committee may allow for public participation at any meeting. Members of the public who wish to address the POL Board or a designated committee at any meeting shall be required to provide contact information on a form provided for that purpose and shall be required to comply with any time limitation deemed appropriate by the chairperson or the designated committee chair.

T. Letterhead. Use of POL Board letterhead shall be limited to official business of the POL Board and specifically shall not be used in connection with any political campaign or to support or oppose any public issue unless the POL Board has taken a position on the issue; to support or oppose any political candidate; or for personal or charitable purposes.

REGULATIONS 4. CONFLICT OF INTEREST.

- A. In General. A Member who has or has had a lawyer/client relationship or financial relationship with, or who is an immediate family member of, a person or entity who is a complainant or the subject of a matter before the POL Board shall not participate in the investigation or deliberation on any matter involving that complainant, person, or entity. No WSBA employee shall participate in deliberation on any matter which is pending in, or likely to be referred to, the WSBA attorney disciplinary system or bar admission.
- B. Disclosure. A Member with a past or present relationship, other than that as provided in section A above, with a person or entity who is the complainant or subject of a matter before the POL Board, shall disclose such relationship to the POL Board and, if the POL Board deems it appropriate, that Member shall not participate in any action relating to that matter.

REGULATION 5. ADVISORY OPINIONS.

- A. Requests for Advisory Opinions. Any person may request an advisory opinion from the POL Board relating to the authority of a non-lawyer to perform legal and law-related services. Such requests shall be in writing in a form and in a manner prescribed by the POL Board and signed by the person requesting the opinion.
- B. Board Initiated Advisory Opinions. The POL Board may render advisory opinions relating to the authority of non-lawyers to perform legal and law-related services in connection with the consideration of any complaint or in any investigation made on its own initiative relating to the unauthorized practice of law by any person or entity.
- C. Notice of Request. The POL Board may give notice to any person or entity, either personally or by publication, of any pending request for an advisory opinion or pending POL Board initiated advisory opinion, and invite written comments regarding the pending advisory opinion.
- D. Pending Controversy. The POL Board may not render an advisory opinion in any matter that, to its knowledge, is the subject of or might affect a case or controversy pending in any court or administrative [attorney disciplinary] proceeding.
- E. Public Hearing. The POL Board may conduct a public hearing at a date and time and in a manner set by the POL Board, designed to make it accessible to interested parties as determined by the Board, on any request for an advisory opinion or a POL Board initiated advisory opinion.
- F. POL Board Action. Upon receipt of a proper request for an advisory opinion, the POL Board may issue an advisory opinion or proposed advisory opinion, or may decline to issue an advisory opinion. If the POL Board issues an advisory opinion, it shall be in writing and shall be transmitted to the person making the request, or in the case of a POL Board initiated advisory opinion, it may be transmitted to any person(s) determined by the POL Board for whose benefit or detriment the advisory opinion was issued.

G. Publication of Advisory Opinions. The POL Board may arrange for the publication of advisory opinions in the Washington State Bar News. Opinions so published shall not, insofar as practicable, identify the party or parties making the inquiry, the complainant or the respondent.

H. Petitions for Review. Petitions for review of any advisory opinion issued by the POL Board shall conform with Regulation 7 below.

REGULATION 6. COMPLAINTS.

A. Filing Complaints. Complaints alleging the unauthorized or unlicensed practice of law shall be submitted to the POL Board, in writing, in a form and manner prescribed by the POL Board.

B. Investigation. The POL Board may, on its own initiative and without any complaint being made to it, investigate any condition, situation or activity involving the unauthorized or unlicensed practice of law of which it becomes aware in the same manner as if a complaint had been made under section A above.

C. Initial Review of Complaints. Upon receipt of a complaint, the Board Administrator shall conduct an initial review to determine whether it is within the jurisdiction of the POL Board or may be subject to deferral. If not within the jurisdiction of the POL Board or if it is subject to deferral, the Board administrator shall advise the complainant that the matter will not be opened as a complaint, and the reasons. The complainant may submit additional information. All such items will be placed on the next POL Board agenda for review and any action deemed appropriate by the POL Board. If the complaint is deemed to be within the jurisdiction of the POL Board and not subject to deferral, the complaint will be opened for investigation.

D. Request for Response. If a complaint is opened for investigation, a copy shall be sent to the respondent with a request to respond within 20 days, and with notice that if the respondent does not respond, the complaint shall be considered without a response.

E. Report and Written Agreement. The complainant and respondent shall be interviewed and such other and further review or investigation may be conducted as is deemed appropriate. A written report and recommendation will be submitted to the Board, by transmitting it to the Board Administrator and the Members.

All Members shall have one week (5 working days) to submit comments respecting the report by transmitting them to the Board Administrator and the Members. If the report recommends dismissal of the complaint and there are no adverse comments from the Members within the comment period, the report and recommendation shall be deemed adopted by the POL Board and the chairperson shall immediately notify the complainant and the respondent, in writing, of the dismissal and the matter shall be closed. If one or more Members disagree with the recommendation for dismissal, the matter shall be placed on the agenda of the next meeting of the POL Board for action by the POL Board. If the report concludes that there has been an unauthorized or unlicensed practice of law, the matter shall be placed on the agenda of the next POL Board meeting for action.

F. POL Board Review. If upon POL Board review of a report and recommendation, the POL Board concludes that there has been no unauthorized or unlicensed practice of law, the complaint shall be dismissed and the chairperson shall so notify the complainant and the respondent, in writing, and shall close the file. If the POL Board concludes that there has been unauthorized or unlicensed practice of law, the POL Board shall proceed in the following manner:

- (1) The POL Board shall attempt through the Chairperson or his or her designee to persuade the respondent to enter into a written agreement to refrain from the objectionable conduct in the future. Such written agreement shall be prepared by the Chairperson or his or her designee and may include a stipulation as to penalties in the event of continued unauthorized or unlicensed practice of law which is the subject matter of the agreement or violation of other terms of the agreement.
- (2) If the respondent will not enter into a written agreement as set forth in (1) above, the POL Board may attempt to arrive at any other satisfactory disposition as determined by the POL Board. In attempting to arrive at a satisfactory disposition, the POL Board may, at a regular or special POL Board meeting, or by a designated committee, conduct an informal conference with the respondent, which conference may, in the discretion of the chairperson or designated committee chair, be recorded electronically or reported by a certified court reporter. At such informal conference, the respondent may be represented by counsel, but the informal conference shall not be public, nor shall rules of evidence apply. If the informal conference was held by a designated committee, the chair shall render a report, in writing, to the POL Board at the next POL Board meeting for action. If the POL Board determines that the respondent has engaged in the unauthorized or unlicensed practice of law, the POL Board shall endeavor to have the respondent enter into a written agreement to refrain from the objectionable conduct in the future, in the same manner as provided in (1) above. If, however, the respondent declines to enter into a written agreement, the POL Board may refer the matter to the appropriate law enforcement or other agency in accordance with GR 25(h).

G. Pending Controversy. Notwithstanding the foregoing, the POL Board may defer an investigation in any matter that, to its knowledge, is the subject of or might affect a case or controversy pending in any court or administrative [attorney disciplinary] proceeding.

H. Notice of Board Action.

- (1) Notice to Parties. The chairperson shall provide notice to any complainant who has not been previously notified of dismissal and each respondent, other than a respondent who has entered into a written agreement, of POL Board action with respect to the complaint or self-initiated investigation within ten days of POL Board action. All such notices of POL Board action shall inform the recipients of the right to petition for review by the Supreme Court as prescribed in GR 25(g).
- (2) Publication of Notice: The POL Board may, in its discretion, publish notice of Board action on a complaint alleging the unauthorized practice of law in the Washington State Bar News, on the WSBA website, or elsewhere as it deems appropriate. The Board Administrator has discretion in drafting notices for publication, and they should

include sufficient information to adequately inform the public of the reasons for the Board's action and conclusions.

REGULATION 7. PETITIONS FOR REVIEW.

Petitions for review from any action of the POL Board to the Supreme Court shall comply with GR 25(g).

REGULATION 8. RECOMMENDATIONS TO THE SUPREME COURT.

A. In General. On the request of the Supreme Court or any person or organization, or on its own initiative, the POL Board may recommend that non-lawyers be authorized to engage in certain defined activities that otherwise constitute the practice of law as defined in GR 24.

B. Public Hearing. The POL Board may, in its discretion, conduct a public hearing upon such notice and at a date, time and in a manner as determined by the POL Board on any self-initiated action or request for a recommendation to the Supreme Court.

C. Recommendation. Any recommendation forwarded by the POL Board to the Supreme Court that non-lawyers be authorized to engage in certain legal or law-related activities that constitute the practice of law as defined in GR 24 shall set forth the determining factors required by GR 25(c)(4), and any additional factors the POL Board deems relevant.

D. Transmittal of Recommendation to the Board of Governors. Any recommendation from the POL Board pursuant to this Regulation 8 shall be submitted to the WSBA Board of Governors for consideration and comment before transmission to the Supreme Court. The recommendation of the POL Board with comments by the WSBA Board, if any, shall be transmitted to the Supreme Court as provided in GR 25(c)(4). The WSBA Board of Governors may affirm the recommendation of the POL Board or recommend that it be modified or rejected.

[Approved by the Supreme Court December 2, 2004; Adopted amended effective September 1, 2005.]

STATE OF COLORADO

EXHIBIT C (STATE OF COLORADO)

DEFINITION OF PRACTICE OF LAW BY COLORADO SUPREME COURT

Excerpted from Rule 201.3. Classification of Applicants

(2) For purposes of this rule, “practice of law” means:

(a) The private practice of law as a sole practitioner or as a lawyer employee of or partner or shareholder in a law firm, professional corporation, legal clinic, legal services office, or similar entity; or

(b) Employment as a lawyer for a corporation, partnership, trust, individual, or other entity with the primary duties of:

(i) Furnishing legal counsel, drafting documents and pleadings, and interpreting and giving advice with respect to the law, and/or

(ii) Preparing, trying or presenting cases before courts, executive departments, administrative bureaus or agencies; or

(c) Employment as a lawyer in the law offices of the executive, legislative, or judicial departments of the United States, including the independent agencies thereof, or of any state, political subdivision of a state, territory, special district, or municipality of the United States, with the primary duties of

(i) Furnishing legal counsel, drafting documents and pleadings, and interpreting and giving advice with respect to the law, and/or

(ii) Preparing, trying or presenting cases before courts, executive departments, administrative bureaus or agencies; or

(d) Employment as a judge, magistrate, hearing examiner, administrative law judge, law clerk, or similar official of the United States, including the independent agencies thereof, or of any state, territory or municipality of the United States with the duties of hearing and deciding cases and controversies in judicial or administrative proceedings, provided such employment is available only to a lawyer; or

(e) Employment as a teacher of law at a law school approved by the American Bar Association throughout the applicant’s employment; or

(f) Any combination of subparagraphs (a) – (e) above.

[from Colorado Revised Statutes, Court Rule Book 1, 2006, Colorado Rules of Civil Procedure, pages 688-689]

CHAPTER 19
UNAUTHORIZED PRACTICE OF LAW RULES
STATE OF COLORADO

**Amended and Adopted by the Court, En Banc,
December 14, 2006, effective January 1, 2007**

Rule 228. Jurisdiction

The Supreme Court of Colorado, in the exercise of its exclusive jurisdiction to define the practice of law and to prohibit the unauthorized practice of law within the State of Colorado, adopts the following rules, which shall govern proceedings concerning the unauthorized practice of law.

Rule 229. Appointment and Organization of Unauthorized Practice of Law Committee

(a) There is hereby established a committee to be known as the Unauthorized Practice of Law Committee of the Supreme Court of the State of Colorado (Committee) and which shall be an adjunct to the Supreme Court. The Committee shall be composed of nine members, six of whom shall be members of the Bar of Colorado. The members of the Committee shall be appointed by the Supreme Court for terms of three years, beginning on the 1st day of January, and the terms of three members shall commence each year; provided, that terms may be for shorter periods to accommodate changes in the size of the Committee by amendments to this rule. Membership on the Committee may be terminated by the Supreme Court at its pleasure, and members may resign at any time. Any vacancies shall be filled by appointment by the Supreme Court for the unexpired term. The Committee and members thereof shall be entitled to reimbursement for reasonable travel, lodging, and other expenses incurred in the performance of their official duties.

(b) The Supreme Court shall designate a member of the Committee as Chair.

(c) The Committee may adopt rules providing for the time and place of its meetings, the selection of a Vice-Chair and other officers, and such other rules not in conflict with the rules of the Supreme Court as may be deemed necessary or expedient for the conduct of the Committee's business. The Clerk of the Supreme Court shall have copies of the rules for interested persons.

(d) The Committee may enlist the assistance of other duly licensed members of the Bar of Colorado in the performance of the activities of the Committee.

Rule 230. Committee Jurisdiction

(a) The Committee shall have jurisdiction over and inquire into and consider complaints or reports made by any person, including Regulation Counsel, or other entities alleging the

unauthorized practice of law. Moreover, the Committee, on its own motion, may inquire into any matter pertaining to the unauthorized practice of law.

(b) Nothing contained in these rules shall be construed as a limitation upon the authority or jurisdiction of any court or judge thereof to punish for contempt any person or legal entity not having a license from this court who practices law or attempts or purports to practice law in any matter which comes within the jurisdiction of that court nor shall these rules be construed as a limitation upon any civil remedy or criminal proceeding which may otherwise exist with respect to the unauthorized practice of law.

Rule 231. Regulation Counsel; Duties and Powers

Regulation Counsel, appointed by the Supreme Court pursuant to C.R.C.P. 251.3, shall have the following duties and powers, in addition to those set forth in C.R.C.P. 251.3:

(a) (1) To investigate and to assist with the investigation of all matters within the jurisdiction of the Committee, upon the request and at the direction of members of the Committee; to dismiss allegations as provided in C.R.C.P. 232.5(c); and to report to the Committee as provided in C.R.C.P. 232.5(d).

(2) To prepare and prosecute, or assist in the preparation and prosecution of, civil- injunction proceedings as provided in C.R.C.P. 234 to 237.

(3) To prepare and prosecute, or assist in the preparation and prosecution of, contempt proceedings as provided in C.R.C.P. 238 and 239.

(b) To maintain records in the office of the Committee, in an appropriately cataloged manner, of all matters coming within the jurisdiction of the Committee.

(c) To provide facilities for the administration of proceedings under these rules and for receiving and filing all requests of investigation and all complaints concerning matters within the jurisdiction of the Committee.

(d) To employ such staff, including investigative and clerical personnel, subject to approval of the Committee, as may be necessary to carry out the duties under these rules.

(e) To perform such other duties as the Chair or the Supreme Court may require.

Rule 232.5. Investigation; Procedure; Subpoenas

(a) All matters within the jurisdiction of the Committee shall be referred to the Regulation Counsel who shall either conduct an investigation or, if the Chair concurs, refer the matter to a member of the Committee pursuant to this rule or to an enlisted member of the Bar pursuant to C.R.C.P. 229(d) for investigation. Unless excused by the Regulation Counsel, the complainant shall be required to submit the complaint in writing and subscribe the same.

(b) (1) Promptly after receiving a written request for investigation or complaint, the Regulation Counsel shall determine whether to proceed with an investigation. In making such determination, the Regulation Counsel may make such inquiry regarding the underlying facts as the Regulation Counsel deems appropriate.

(2) If the Regulation Counsel determines to proceed with an investigation or refers the matter to a member of the Committee or an enlistee for investigation pursuant to C.R.C.P. 232.5(a), the respondent shall be: notified that the investigation is underway; provided with a copy of the complaint and of the rules governing the investigation; and asked to file with the Regulation Counsel or the person conducting the investigation a written answer to the complaint within 20 days after notice of the investigation is given.

(c) When the investigation is concluded, the Regulation Counsel shall either dismiss the allegations or report to the Committee for a determination as provided in paragraph (d) of this rule. If the Regulation Counsel dismisses the allegations, the person making the allegations may request review of the Regulation Counsel's decision by the Committee. If such review is requested, the Committee shall review the matter and make a determination as provided in paragraph (d). The Committee shall sustain the dismissal unless it finds that the Regulation Counsel's action constituted an abuse of discretion. If the Committee sustains a dismissal, it shall furnish the person making the allegations with a written explanation of its decision.

(d) If, after conducting an investigation, the Regulation Counsel believes that the Committee should authorize an informal disposition, civil-injunction proceedings, or contempt proceedings, the Regulation Counsel shall submit a report of the investigation and a recommendation to the Committee. The Committee shall then decide whether to:

(1) dismiss the matter; provided that the dismissal may be either with or without a finding of the unauthorized practice of law, and the letter of dismissal may contain cautionary language if appropriate; and provided that the person making the allegation shall be furnished a written explanation of the Committee's decision;

(2) conduct further investigation;

(3) enter into an informal disposition with the respondent consisting of a written agreement by the respondent to refrain from the conduct in question, to refund any fees collected, to make restitution and/or to pay a fine that may range from \$100 to \$250 per incident; such informal dispositions are to be encouraged;

(4) commence civil-injunction proceedings as provided in C.R.C.P. 234 to 237; or

(5) commence contempt proceedings as provided in C.R.C.P. 238 and 239.

(e) At least three Committee members must be present for the Committee to act upon said reports, findings, and recommendations.

(f) In connection with an investigation of the unauthorized practice of law, the Chair or the Regulation Counsel may issue subpoenas to compel the attendance of respondents and other witnesses or to compel the production of books, papers, documents, or other evidence. All such subpoenas are subject to the provisions of C.R.C.P. 45.

(g) Any person subpoenaed to appear and give testimony, or to produce books or records, who refuses to appear and give testimony, or to produce the books or records; and any person having been sworn to testify and who refuses to answer any proper questions, may be cited for contempt of the Supreme Court, as provided in C.R.C.P. 107.

(h) Any person investigating a matter pursuant to these rules shall have the power to administer oaths and affirmations, and to take and have transcribed the testimony and evidence of witnesses.

(i) Any person who knowingly obstructs the Regulation Counsel or the Committee, or any part thereof, in the performance of their duties may be cited for contempt of the Supreme Court, as provided in C.R.C.P. 107.

Rule 234. Civil Injunction Proceedings; General

(a) If the Committee determines that civil injunction proceedings shall be instituted against a respondent, such proceedings may be commenced in the name of the People of the State of Colorado by a petition filed in the Supreme Court by the Regulation Counsel or by a member of the Bar appointed by the Supreme Court for the purpose of conducting such proceedings.

(b) The petition shall be in writing and shall set forth the facts and charges in plain language and with sufficient particularity to inform the respondent of the acts complained of. The petition shall specify requested relief which may include, without limitation, injunction, refund, restitution, a fine, and assessment of costs of the proceeding.

(c) The Supreme Court, upon consideration of the petition so filed, may issue its order directed to the respondent commanding the respondent to show cause why the respondent should not be enjoined from the alleged unauthorized practice of law, and further requiring the respondent to file with the Supreme Court within 20 days after service of the petition and show cause order, a written answer admitting or denying the matter stated in the petition. The show cause order, together with a copy of the petition, shall be served upon the respondent. Service of process shall be sufficient when made either personally upon the respondent or by certified mail sent to the respondent's last known address.

(d) If no response or defense is filed within the time permitted, the Supreme Court, upon its motion or upon motion of any party, shall decide the case, granting such relief and issuing such other orders as may be appropriate.

(e) If a response or defense raises no genuine issue of material fact, any party by motion may request a judgment on the pleadings and the Supreme Court may decide the case as a matter of law, granting such relief and issuing such orders as may be appropriate.

(f) Upon the Supreme Court's motion or upon motion of any party, questions of fact raised in proceedings under this rule shall be referred to a hearing master for determination.

Rule 235. Civil Injunction Proceedings; Hearing Master, Powers, Procedure

(a) Civil injunction proceedings before a hearing master shall be held in any county designated by the hearing master that is convenient to the participants.

(b) The People of the State of Colorado may be represented in proceedings before the hearing master by the Regulation Counsel, or by a member of the Bar appointed pursuant to Rule 234. Upon receipt of the order of reference, the hearing master shall set a date, time, and place for a first meeting of the parties which shall be within 30 days after the date notice thereof is given and notify the parties accordingly. At such meeting, a date, time, and place for hearing shall be set, and any matters which may expedite the proceedings shall be considered. A complete record of this meeting shall be made unless jointly waived by the parties. After the first meeting, the hearing master shall issue a notice of hearing to the parties. The notice shall be in writing and shall designate the date, time, and place of the hearing. The notice shall also advise the respondent that the respondent is entitled to be represented by counsel at the hearing, to cross-examine witnesses, and to present evidence in the respondent's own behalf. The giving of notice shall be sufficient when made by certified mail sent to the respondent at the respondent's last known address.

(c) The parties may procure the attendance of witnesses before the hearing master by the issuance of subpoenas which shall run in the name of the Supreme Court and may be issued by the hearing master or Clerk of the Supreme Court upon the request of a party. All such subpoenas shall be subject to the provisions of C.R.C.P. 45. Failure or refusal, without adequate excuse, to comply with any such subpoena shall be a contempt of the Supreme Court and may be punished accordingly.

(d) The Colorado Rules of Civil Procedure shall be applicable when not inconsistent with these rules. Subject to any limitations in the order of reference, the hearing master shall have the powers generally reposed in a "Court" under the Colorado Rules of Civil Procedure. At all hearings before a hearing master witnesses shall be sworn and a complete record made of all proceedings had and testimony taken.

Rule 236. Civil Injunction Proceedings; Report of Hearing Master; Objections

(a) After the hearing, the hearing master shall report in writing to the Supreme Court in accordance with the order of reference, setting forth findings of fact, conclusions of law, and recommendations for final disposition of the case. If the hearing master makes a finding of unauthorized practice of law in the report, then the hearing master shall also recommend that a fine be imposed for each incident of unauthorized practice of law; the minimum fine for each incident shall be not less than \$250 and not more than \$1000. A report from the Presiding Disciplinary Judge approving the parties' stipulation to injunction, may be exempt from a fine.

Promptly after the report is filed with the Supreme Court, the Clerk shall mail copies thereof to all parties.

(b) Objections to the report of the hearing master may be filed with the Supreme Court by any party, within 30 days after copies of the report have been mailed to the parties.

(c) If no objections are filed, the case shall stand submitted upon the hearing master's report.

(d) If objections are filed, the objecting party shall within 10 days thereafter request the reporter to prepare a transcript of the proceedings before the hearing master, or any portion of such transcript thereof as is deemed necessary for the consideration of the case. The objecting party shall file with the Supreme Court and serve on the opposing party a designation of those portions of the transcript and of the record before the hearing master which the party wishes added to the record before the Supreme Court.

The opposing party may within 10 days after service of the designation file and serve a cross-designation of any additional portions of the transcript and additional parts of the record before the hearing master as is deemed necessary for a proper consideration of the case. The objecting party is responsible for the expense of preparing the record, including the transcript or portions thereof.

The reporter shall prepare the transcript and file it, properly certified, with the Supreme Court within 60 days after the filing of the objections.

(e) An objecting party shall have 30 days after the filing with the Supreme Court of the transcript and other additions to the record within which to file an opening brief. The opposing party shall have 30 days after the filing of the objecting party's opening brief within which to file an answer brief. The objecting party shall have 10 days after the filing of the answer brief within which to file a reply brief.

(f) A brief of an amicus curiae may be filed only by leave of the Supreme Court granted on motion or by the request of the Court. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. Any amicus curiae shall file its brief within the time allowed the party whose position the amicus brief will support unless the Court for cause shown shall grant leave for later filing, in which event it shall specify within what period an opposing party may answer.

Rule 237. Civil Injunction Proceedings; Determination by Court

(a) After review of the report of the hearing master, together with any objections and briefs, the Supreme Court may adopt the report or modify or reject it in whole or in part and shall determine as a matter of law whether the respondent has been engaged in the unauthorized practice of law. If the Supreme Court finds that the respondent was engaged in the unauthorized practice of law, the Supreme Court may enter an order enjoining the respondent from further

conduct found to constitute the unauthorized practice of law, and make such further orders as it may deem appropriate, including restitution and the assessment of costs.

(b) Nothing in this rule shall be construed to limit the power of the Supreme Court, upon proper application, to issue an injunction at any stage of the proceeding in order to prevent public harm.

Rule 238. Contempt Proceedings; General

(a) If the Committee determines that contempt proceedings shall be instituted against a respondent, such proceedings shall be commenced in the name of the People of the State of Colorado by a petition filed in the Supreme Court by the Regulation Counsel or by a member of the Bar appointed by the Supreme Court for the purpose of conducting such proceedings.

(b) The petition shall allege facts indicating that the respondent is engaged in the unauthorized practice of law and shall contain a prayer for the issuance of a contempt citation.

(c) Upon the filing of a petition, the Supreme Court may issue a citation directing the respondent to show cause why he should not be held in contempt of the Supreme Court for the unauthorized practice of law, or the Supreme Court may, in the alternative, issue a show cause order in civil injunctive proceedings which shall be governed by Rules 234 to 237. If a citation is issued, the citation shall state that a fine of not less than \$2000 per incident or imprisonment may be imposed to vindicate the dignity of the Supreme Court.

(d) If a contempt citation is issued, it shall be served upon the respondent, together with a copy of the petition, as provided in Rule 4, C.R.C.P., and the citation shall specify the time for response. If a response is filed, the Supreme Court shall appoint a hearing master who shall set a date, time, and place for the appearance of the respondent, and shall give notice thereof. The notice shall be in writing. The notice shall designate the date, time, and place of the appearance. The notice shall also advise the respondent that the respondent is entitled to be represented by counsel at the appearance, to cross-examine witnesses, and to present evidence in the respondent's own behalf. The giving of notice shall be sufficient when made by certified mail sent to the respondent at the respondent's last known address.

(e) Proceedings for the hearing of a contempt citation before a hearing master shall be held in any county designated by the hearing master that is convenient to the participants.

(f) If the respondent has been served with a citation and fails to respond to the citation or appear before the hearing master at the time and place designated in the notice issued by the hearing master, a warrant for the arrest of the respondent may be issued by the hearing master without prior approval of the Supreme Court. The warrant shall fix the time and place for the production of the respondent before the hearing master. The hearing master shall direct by endorsement on the warrant the amount of bail required, and the respondent shall be discharged upon the delivery to and approval by the sheriff or the Clerk of the Supreme Court of a written undertaking executed by a sufficient surety, to the effect that the respondent will appear at the time and place designated in the warrant and at any time thereafter to which the hearing on the

citation may be continued, or pay the sum specified. Any funds surrendered as bail shall be deposited with the Clerk of the Supreme Court or with the Clerk of the District court in the county where the proceedings are to be held. If the respondent fails to appear at the time designated in the warrant, or at any time to which the hearing may be continued, the undertaking may be forfeited upon order of the hearing master. If the respondent fails to make bond, the sheriff shall keep the respondent in custody and produce the respondent before the hearing master at the time and place fixed by the warrant.

(g) At all hearings before the hearing master, witnesses shall be sworn and a complete record made of all proceedings had and testimony taken. The citation shall be prosecuted by the Regulation Counsel of the State of Colorado or by such duly licensed and registered members of the Bar as may be designated by this Court.

(h) The Colorado Rules of Civil Procedure shall be applicable when not inconsistent with these rules. Subject to any limitations in the order of reference, the hearing master shall have the powers generally reposed in a "court" under the Colorado Rules of Civil Procedure.

(i) The parties may procure the attendance of witnesses before the hearing master by the issuance of subpoenas in the name of the Supreme Court, which may be issued by the hearing master or Clerk of the Supreme Court upon the request of a party. All such subpoenas shall be subject to the provisions of C.R.C.P. 45. Failure or refusal, without adequate excuse, to comply with any such subpoena shall be a contempt of the Supreme Court and may be punished accordingly. The parties shall have the right to be present at all times during the hearings before the hearing master and to examine and cross-examine witnesses.

Rule 239. Contempt Determination by Court Proceedings; Report of Hearing Master; Objections

(a) After the conclusion of the hearing, the hearing master shall report in writing to the Supreme Court, setting forth the hearing master's findings of fact, conclusions of law, and, upon a finding of contempt, recommendations for punishment. If the matter proceeds to trial and the hearing master makes a finding of contempt but does not recommend imprisonment, then the hearing master shall recommend that a fine be imposed for each incident of contempt; the minimum fine for each incident shall be not less than \$2000 and not more than \$5000. Promptly after the report is filed with the Supreme Court, the Clerk of the Supreme Court shall mail copies thereof to the parties.

(b) Objections to the report of the hearing master may be filed with the Supreme Court by either party within 30 days after the filing of the report.

(c) If no objections are filed, the case shall stand submitted upon the hearing master's report.

(d) If objections are filed, the objecting party shall within 10 days thereafter request the reporter to prepare a transcript of the proceedings before the hearing master, or any portion of such transcript thereof as is deemed necessary for the consideration of the case. The objecting party

shall file with the Supreme Court and serve on the opposing party a designation of those portions of the transcript and of the record before the hearing master which the party wishes added to the record before the Supreme Court.

The opposing party may within 10 days after service of the designation file and serve a cross-designation of any additional portions of the transcript and additional parts of the record before the hearing master as is deemed necessary for a proper consideration of the case. The objecting party is responsible for the expense of preparing the record, including the transcript or portions thereof.

The reporter shall prepare the transcript and file it, properly certified, with the Supreme Court within 60 days after the filing of the objections.

(e) An objecting party shall have 30 days after the filing with the Supreme Court of the transcript and other additions to the record within which to file an opening brief. The opposing party shall have 30 days after the filing of the objecting party's opening brief within which to file an answer brief. The objecting party shall have 10 days after the filing of the answer brief within which to file a reply brief.

(f) A brief of an amicus curiae may be filed only by leave of the Supreme Court granted on motion or by the request of the Court. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. Any amicus curiae shall file its brief within the time allowed the party whose position the amicus brief will support unless the Court for cause shown shall grant leave for later filing, in which event it shall specify within what period an opposing party may answer.

(g) After review of the report of the hearing master any objections thereto and briefs, the Supreme Court may adopt the report or modify or reject it in whole or in part and shall determine whether the respondent is guilty of contempt of the Supreme Court and shall, by order, prescribe the punishment therefor, including the assessment of costs, expenses and reasonable attorney's fees.

(h) Nothing in this rule shall be construed to limit the power of the Supreme Court, upon proper application, to issue an injunction at any stage of contempt proceedings in order to prevent public harm, or to limit the power of the Supreme Court to issue an injunction in lieu of or in addition to the imposition of a fine or any other remedy under these rules.

Rule 240. General Provisions; Qualifications of Hearing Master; Access to Information Concerning Proceedings Under these Rules

(a) A hearing master to whom matters are referred pursuant to these rules shall be a person who is duly licensed to practice law in Colorado.

(b) All civil injunction proceedings and contempt proceedings filed in the Supreme Court pursuant to Rules 234 and 238, including proceedings before a hearing master, shall be public proceedings.

(c) Except as otherwise provided by these rules or by order of the Supreme Court, all proceedings conducted pursuant to these rules shall be confidential, and the files and records of the Committee shall be confidential and shall not be made public.

Except as otherwise provided by these rules, any person who wishes to disclose or to make public the pendency, subject matter, or status of proceedings which are otherwise confidential or to disclose or to make public the files and records of the Committee which are otherwise confidential or to gain access to the files and records of the Committee which are otherwise confidential shall file a petition with the Supreme Court setting forth the specific reasons why the existence of the particular proceedings should not remain confidential or the specific reasons why the disclosure of particular files and records or access to them should be permitted.

Upon final determination of any proceedings conducted pursuant to these rules, notice of the disposition of the matter shall be given by Regulation Counsel or the Clerk of the Supreme Court to the respondent, the complainant, and their counsel of record. Any person having received notice that a written agreement has been entered pursuant to C.R.C.P. 232.5(d)(3) shall treat such information as confidential and shall not disclose such information to anyone, except by order of the Supreme Court. Any person who makes a disclosure other than as permitted by these rules or by order of the Supreme Court may be subject to punishment for contempt of the Supreme Court.

(d) Exceptions to Confidentiality. The pendency, subject matter, and status of the proceedings conducted pursuant to these rules may be disclosed by the Committee or Regulation Counsel to:

- (1) An entity authorized to investigate the qualifications of persons for admission to practice law;
- (2) An entity authorized to investigate the qualifications of judicial candidates;
- (3) A lawyer discipline enforcement agency;
- (4) Any person or agency requesting such information, provided that the respondent has waived confidentiality and the request is within the scope of the waiver;
- (5) An enlistee who, pursuant to Rule 229(d), was enlisted to assist the Committee;
- (6) An agency authorized to investigate violations of the criminal laws or the consumer protection laws of this state or any other state, or of the United States; or

(7) Any person or agency, provided the proceeding is predicated either upon allegations that have become generally known to the public through printed or broadcast news accounts or upon acts of the respondent which are public or generally known.

(d.5) Access to the files and records of the Committee may be granted by the Committee or the Regulation Counsel, provided a request for disclosure or access is made in writing by:

(1) An entity authorized to investigate the qualifications of persons for admission to practice law;

(2) An entity authorized to investigate the qualifications of persons for government employment;

(3) An agency authorized to investigate allegations of unauthorized practice of law;

(4) An entity authorized to investigate the qualifications of judicial candidates;

(5) A lawyer discipline enforcement agency;

(6) An agency authorized to investigate violations of the criminal laws or the consumer protection laws of this state or any other state, or of the United States; or

(7) A state or federal judicial or administrative court or agency with which the respondent has had previous contact.

If the Regulation Counsel discloses confidential information to a judicial nominating commission of the State of Colorado or grants a judicial nominating commission access thereto, the Regulation Counsel shall give written notice to the respondent that specified confidential information has been so disclosed or that access has been granted.

(e) Repealed.

Rule 240.1. Immunity

Persons performing official duties under the provisions of this chapter, including but not limited to members of the Committee and its staff; the Regulation Counsel and the Regulation Counsel's staff; the members of the Bar and enlistees working under the direction of the Committee; and the hearing masters, shall be immune from suit for all conduct in the course and scope of their official duties.

Rule 240.2. Expunction of Records

(a) Expunction — Self-Executing. Except for records relating to proceedings that have 1) become public pursuant to C.R.C.P 234, et seq., 2) resulted in a finding of unauthorized practice of law, or 3) resulted in agreements, all records relating to proceedings that were dismissed without a finding of unauthorized practice of law shall be expunged from the files of

the committee, the Presiding Disciplinary Judge, and Regulation Counsel three years after the end of the year in which the dismissal occurred.

(b) Definition. The terms “expunge” and “expunction” shall mean the destruction of all records or other evidence of any type, including but not limited to, the request for investigation, the response, the investigator’s notes, and the report of investigation.

(c) Notice to Respondent. If proceedings conducted pursuant to these Rules (or their predecessor) were commenced, the attorney in question shall be given prompt notice of the expunction.

(d) Effect of Expunction. After expunction, the proceedings shall be deemed never to have occurred. Upon either general or specific inquiry concerning the existence of proceedings which have been expunged, the committee or the Regulation Counsel shall respond by stating that no record of the proceedings exists. The respondent in question may properly respond to any general inquiry about proceedings which have been expunged by stating that no record of the proceedings exists. The respondent in question may properly respond to any inquiry requiring reference to a specific proceeding which has been expunged by stating only that the proceeding was dismissed with no finding of unauthorized practice of law and that the record of the proceeding was expunged pursuant to this Rule. After a response is provided and is given to an inquirer, no further response to an inquiry into the nature or scope of the proceedings which have been expunged needs be made.

(e) Retention of Records. Upon written application to the committee, for good cause and with written notice to the respondent in question and opportunity to such respondent to be heard, the Regulation Counsel may request that records which would otherwise be expunged under this Rule be retained for such additional period of time, not to exceed three years, as the committee deems appropriate. The Regulation Counsel may seek further extensions of the period for which retention of the records is authorized whenever a previous application has been granted.

THE UNAUTHORIZED PRACTICE OF LAW IN COLORADO

If the UPL Committee recommends injunctive or contempt proceedings, the Office of Attorney Regulation Counsel will file a petition for injunction or contempt against the non-lawyer before the Colorado Supreme Court. The Colorado Supreme Court then appoints a hearing master to hold a trial on the matter. The hearing master will hear all relevant evidence, which may include your testimony, the testimony of the non-lawyer and any other witnesses. The hearing master then makes findings of fact and files a report and recommendations with the Colorado Supreme Court. The Colorado Supreme Court reviews the trial record and the hearing master's report and recommendations. It has final authority to determine guilt in an action for indirect criminal conduct and to issue an order enjoining the non-lawyer from further activity.

WHAT SHOULD I EXPECT AND NOT EXPECT?

You can expect that your inquiry will receive prompt and full attention; investigations are usually completed within eight months. You can expect that every effort will be made to deal with your inquiry in a manner which is fair to both you and the individual about whom you inquire. You can expect to receive written notice of the final disposition.

Don't expect that your allegations will be decided based solely on your understanding of what happened. Nor, in fairness to you, can the non-lawyer about whom you inquire expect that the allegations will be decided based solely on his or her understanding of what happened. The final decision must depend upon the weight of the available and relevant evidence and testimony.

ARE THE PROCEEDINGS CONFIDENTIAL?

Once an inquiry is reviewed and a file is opened, the fact that an investigation is pending and the status of the investigation cannot be disclosed. Only after a petition for injunction or contempt is filed does the matter become public information. At that time, the court file is available to anyone who wishes to see it. Review of court files is available only during regular business hours. A fee for



Colorado Supreme Court Attorney Regulation Counsel
1560 Broadway, Suite 1800 • Denver, Colorado 80202
(303) 866-6400 • Toll Free: (877) 888-1370
This brochure may be reproduced without permission.

Published as a public service by the Supreme
Court of Colorado Attorney Regulation Counsel.

Colorado Supreme Court Attorney Regulation Counsel
1560 Broadway, Suite 1800 • Denver, Colorado 80202
(303) 866-6400 • Toll Free: (877) 888-1370

WHAT HAPPENS IF I DO NOT KNOW ENGLISH?

The Office of Attorney Regulation Counsel will assist by providing translation services to any non-English speaking person.

QUE PASA SI YO NO HABLO INGLES?

La Oficina Regulamentaria de Abogados asistirá en proporcionar servicios de traducción a cualquier persona que tenga queja y no habla inglés.

WHO REGULATES NON-LAWYERS WHEN THEY ACT LIKE LAWYERS?

The Colorado State Constitution gives the Colorado Supreme Court the power to regulate the practice of law. Through this constitutional grant of authority, the Colorado Supreme Court has the inherent authority to regulate and prevent the practice of law by individuals who are not licensed to practice law in Colorado. The Colorado Supreme Court Office of Attorney Regulation Counsel investigates and prosecutes matters involving the unauthorized practice of law (UPL).

WHAT IS THE PURPOSE OF UPL INVESTIGATION AND PROSECUTION?

The purpose of the unauthorized practice of law rules is to protect the public. The Colorado Supreme Court can prevent an individual from continuing to engage in the unauthorized practice of law by issuing a civil injunction. The Colorado Supreme Court, or its UPL Committee, can enter into a written agreement with the individual that requires the individual to refrain from the unauthorized practice of law.

The Office of Attorney Regulation Counsel does not and cannot give individual legal service or legal advice to an individual who files a request for investigation. Proceedings are designed to prevent future unauthorized practice of law. These proceedings may assist you by requiring the non-lawyer to refund any monies paid by you. The proceedings are not designed, however, to represent any interests on your part. If you have suffered a financial or property loss, your rights must primarily be enforced by the usual legal methods against the person responsible for the loss.

WHERE DO I FILE A COMPLAINT?

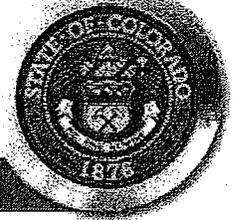
You may make allegations regarding the unauthorized practice of law by providing a written request for investigation to our office. This request can be in letter form. When filing a request for investigation, give your name, address and phone number as well as the name, address and phone number of the non-lawyer. Then try to set forth the facts on which your allegations are based. Attach copies of any court papers, documents, letters or other materials that pertain to your allegations when you file your request for investigation. Please do not send the original documents.

All matters received by our office are first reviewed to determine whether this office has jurisdiction to investigate the allegations. If this office has jurisdiction, an investigation will take place. The non-lawyer may be sent a copy of your request for investigation.

If the matter is designated for further investigation, it will be assigned to an attorney within the trial division of the Office of Attorney Regulation Counsel. At this level, a complete and objective investigation will take place. If, at the conclusion of the investigation, the trial attorney does not believe unauthorized practice of law occurred, the matter will be dismissed. On the other hand, if the trial attorney believes that there was unauthorized practice of law, the matter will be forwarded to the UPL Committee.

The UPL Committee is comprised of both lawyers and non-lawyers, selected by the Colorado Supreme Court to serve in a review capacity. The Committee will review the trial attorney's report. If the UPL Committee determines that the individual did engage in the unauthorized practice of law and that the activity is likely to continue, the Committee may request that the individual sign an agreement to refrain from further unauthorized practice. If the conduct involves the unauthorized practice of law and the individual will not sign an agreement to refrain from other unauthorized practice, the UPL Committee can recommend injunctive proceedings. Injunctive proceedings are before the Colorado Supreme Court and seek a civil injunction which orders the non-lawyer to stop engaging in unauthorized practice. The UPL Committee can also authorize an action before the Colorado Supreme Court for indirect criminal contempt involving any violation of a previous court order of injunction.

COLORADO SUPREME COURT



Attorney Search Attorney Services Public Services Home

Regulation Home
Filing a Complaint
Grievance Process
Complaint Protocol
Rules
Unauthorized Practice of Law
Attorney Fund for Client Protection
Presiding Disciplinary Judge
Trust Acct. & Ethics Registration Forms
Certificate of Disciplinary History
Staff Directory
Contact Us

PERSONS ORDERED TO STOP ENGAGING IN THE UNAUTHORIZED PRACTICE OF LAW

The following individuals have been publicly enjoined from engaging in any further acts of unauthorized practice of law, by order of the Colorado Supreme Court, since January 1, 2000. None of these individuals is currently licensed to practice law in Colorado. These individuals cannot legally represent you in a court proceeding, in a divorce, in immigration services, or in any other instance where the services of a licensed attorney would be required:

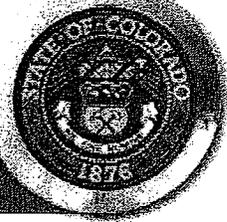
NAME	SUPREME COURT CASE NO.	DATE OF ORDER OF INJUNCTION
Candace Arnold	02SA0011	01/29/02
Page Arnold	02SA0011	01/29/02
Darla Benford	01SA0132	10/01/01
Melvin E. Benson	01SA0083	05/10/01
Janet Brackeen	03SA0188	12/18/03
Derrick Brown	05SA0156	11/14/05
Keino Campbell	06SA0207	06/29/06
Augustin Contreras	06SA0180	06/09/06
Cindy Contreras	06SA0001	04/06/06
Gloria Cox-Romo	04SA0098	06/18/04
Sharon Day	01SA0343	01/11/02
Divorce Tech, Inc.	03SA0370	04/12/04
Richard Duran	01SA0342	03/04/02
Greg Fernandez	01SA0362	02/15/02
David Fishman	05SA0374	09/20/06
Lance Goetz	05SA0067	01/06/06
Larry Goetz	02SA0082	03/29/02
Ronald Gramigna	01SA0057	10/22/01
Jack Harpin	03SA0303	06/11/04
David Haskett	01SA0155	05/15/02
James Jorissen, II	02SA0329	01/29/03
Mike Kaczmarek	04SA0404	06/22/05
Mathew Kemp	01SA0085	03/04/02
Charlotte Kempf	04SA0301	11/30/04
James Kher	04SA0148	03/07/05
Luis Lobo	05SA0157	07/20/05
James Love	02SA0260	02/06/03
Henry Martillaro	03SA0283	12/18/03
Anthony Martinez	04SA0405	12/29/04
Terri Mauldin	03SA0369	01/21/04
Jerome Moore	03SA0284	12/22/03
Bankruptcy National	01SA0158	02/13/02
Todd Newsome	03SA0077	12/18/03
Claude Page	01SA0344	03/04/02
Mike Puentes	06SA0205	06/22/06
T. Ragusin	05SA0070	03/07/05
Cahuilla Red Elk (Margaret Martinez)	03SA0281	03/04/04
Ronald Reece	00SA0061	07/11/00
Miguel Reyes	04SA0393	08/01/05
Curtis Richmond	03SA0377	09/29/04
Thomas Roca	03SA0282	12/18/03

R. L. Scott	05SA0059	06/03/05
Suzanne Shell	01SA0136	10/25/01
Lynda Shough	00SA0224	03/15/01
Crystal Sluyter	02SA0359	03/06/03
Emmett Spooner	03SA0187	10/18/04
Golda Torres	03SA0326	12/16/04
David Van Pelt	03SA0058	07/07/03
William Vinson	04SA0173	12/29/04
Sharon Witmer	0SA02060	07/11/00

Last updated: February 2007.

Designed & Provided by : Xcellinet, Inc Email: Webmaster@Xcellinet.com

COLORADO SUPREME COURT



[Attorney Search](#) [Attorney Services](#) [Public Services](#) [Home](#)

- [Regulation Home](#)
- [Filing a Complaint](#)
- [Grievance Process](#)
- [Complaint Protocol](#)
- [Rules](#)
- [Unauthorized Practice of Law](#)
- [Attorney Fund for Client Protection](#)
- [Presiding Disciplinary Judge](#)
- [Trust Acct. & Ethics Registration Forms](#)
- [Certificate of Disciplinary History](#)
- [Staff Directory](#)
- [Contact Us](#)

NOTICE ABOUT IMMIGRATION SERVICES

Only attorneys, and properly accredited representatives granted official recognition by the Board of Immigration Appeals, are allowed to assist you in preparing immigration documents. For general information about immigration and naturalization, go to www.uscis.gov.

For a current list of accredited agencies, go to www.uscis.gov/legaladvice. To find an immigration attorney who is a member of the American Immigration Lawyers Association, go to www.aialawyer.com. To find an immigration attorney who is a member of the Colorado Bar Association, go to www.cobar.org/directory.

In many other countries, the word "notario" means that an individual is an attorney, but that is not true in the United States. Individuals seeking help with immigration questions should be very careful before paying money to non-attorneys.

Notarios, notaries public, and immigration consultants may NOT represent you before USCIS. They may NOT give you legal advice on what immigration benefit you may apply for or what to say in an immigration interview. These individuals may NOT hold themselves out as qualified in legal matters or in immigration and naturalization procedure and may only charge nominal (inexpensive) fees as regulated by state law. In Colorado, the laws regulating notaries public can be found at C.R.S. § 12-55-110 *et seq.*

If you have paid money to a "notario" or "immigration consultant" for assistance in preparing your immigration documents, you may be entitled to a refund from such individual.

If a notary public or immigration consultant has performed legal work for you, you should call the Colorado Supreme Court Office of Attorney Regulation to **file an unauthorized practice of law complaint**. The Office of Attorney Regulation Counsel investigates every complaint, and may be able to help you get a refund. The Colorado Secretary of State regulates notaries public. If you believe a notary public has acted improperly, you can also **file a complaint with the Secretary of State**.

Designed & Provided by : Xcellinet, Inc Email: Webmaster@Xcellinet.com