

THIS FIFTY-STATE SURVEY IDENTIFIES STATES that have enacted rules of professional conduct governing admission of out-of-state attorneys who represent business organizations as in-house counsel within the forum state. Often, states have chosen to adopt the ABA Model Rule of Professional Conduct 5.5, Unauthorized Practice of Law; Multijurisdictional Practice of Law, rather than drafting their own in-house counsel provision. Where this is the case, the following survey will simply reference the ABA Model Rule 5.5. The relevant portion of Rule 5.5 that addresses the multijurisdictional practice of in-house counsel is as follows:

ABA MODEL RULE OF PROFESSIONAL RESPONSIBILITY

Rule 5.5 Unauthorized Practice of Law; Multijurisdictional Practice of Law

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

- (1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires *pro hac vice* admission; or
- (2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

ALABAMA: Any authorized in-house counsel employed by a business organization may provide legal services to the business organization but may not represent the business organization in court unless the attorney is specially admitted under a separate rule. Further, in-house counsel may not provide personal or individual representation of any officer, director, etc. of the business organization. For proper authorization, the attorney must register with the Alabama State Bar and must be certified by the Alabama Supreme Court and must annually renew this registration. *See* ALA. ST. BAR RULES GOVERNING ADMISSION, Rule IX; ALA. RULES OF PROF'L CONDUCT R. 5.5B.

ALASKA: Alaska has implemented the ABA rule. *See* ALASKA RULES OF PROF'L CONDUCT R. 5.5(d).

ARIZONA: An attorney employed by a business organization within the state of Arizona may apply for an Arizona Certificate of Registration of In-House Counsel which allows the attorney to provide in-house advice and counsel to the organization. This allowance does not include representing the organization in court. ARIZ. SUP. CT. R. 38(i); *see also* ARIZ. ETHICS R. 5.5.

ARKANSAS: Arkansas has implemented the ABA rule. *See* ARK. RULES OF PROF'L CONDUCT R. 5.5.

CALIFORNIA: In-house counsel practicing in California in a qualifying institution may represent that institution but may not make court appearances or engage in any service for which *pro hac vice* admission is required. Further, the attorney may not provide personal or individual representation to the owners, partners, shareholders, etc. of the institution. To properly practice as in-house counsel, the attorney must comply with specific application and eligibility requirements such as annually renewing the attorney's registration. *See* CAL. RULES OF CT. R. 9.46.

COLORADO: To properly engage in activities as in-house counsel, an attorney must register with the Colorado Supreme Court and must fulfill all applicable requirements of registration, such as payment of a certification fee (\$725) and Colorado domicile. Upon approval by the Colorado Supreme Court and receipt of the certification number, the attorney is allowed to represent the employer/business organization in all matters, including representation in court without further admission requirements. Likewise, an attorney admitted pursuant to this limited registration may provide complete pro bono legal services to indigent individuals and to organizations serving indigent individuals. COLO. R. OF CIV. P. 222.

CONNECTICUT: An attorney may represent his or her employer/business organization without taking the Connecticut bar examination so long as the attorney is exclusively employed by the organization. Further, the attorney must be employed in Connecticut as of the date of the attorney's application for registration, or the attorney must be relocating to Connecticut for purposes of such employment within three months of the application. The attorney may not represent the business in a court or as an attorney before any state or municipal administrative agency; however, the attorney may represent the organization in its dealings with administrative agencies or commissions having jurisdiction. CONN. RULES OF PROF'L CONDUCT R. 5.5(d); *see also* CONN. SUPER. CT. GEN. PROVISIONS § 2-15A.

DELAWARE: In-house counsel must apply for a Delaware Certificate of Limited Practice in order to provide legal services for the employer or business organization. The attorney may not appear on behalf of the employer or business organization in any proceeding that would otherwise require *pro hac vice* admission. However, an attorney admitted pursuant to a Certification of Limited Practice may appear on behalf of pro bono clients so long as the representation is under the auspices of legal aid societies, state/local bar projects, or under the supervision of a Member of the Delaware Bar. *See* DEL. SUPR. CT. R. 55.1.

DISTRICT OF COLUMBIA: An attorney may represent his or her employer/business organization so long as the in-house attorney limits his or her practice to the services of the employer. D. C. APP. R. 49(c)(6).

FLORIDA: In-house counsel may apply for special registration without taking the Florida state bar examination so long as the attorney is licensed in another U.S. jurisdiction and provided that all legal activities are limited to the attorney's employer. Counsel may not represent the employer in state courts without authorization pursuant to a separate rule. FLA. BAR RULES Ch. 17.

GEORGIA: A Domestic Lawyer (licensed to practice in any State or Territory of the United States) may represent his or her employer/business organization in any legal matter related to that employment other than those matters requiring *pro hac vice* admission. GA. RULES OF PROF'L CONDUCT R. 5.5.

HAWAII: At this time, Hawaii does not have an exception for in-house counsel acting without Hawaii bar admission.

IDAHO: In-house counsel from outside jurisdictions may practice law in Idaho without taking the state bar examination so long as the practice is limited to representation of the employer/business organization. To obtain an Idaho House Counsel License, the attorney must fulfill specific requirements, such as filing the license application sixty days before beginning employment and paying the application fee, currently \$690. IDAHO RULES OF PROF'L CONDUCT R. 5.5(b); IDAHO BAR COMM'N R. 220.

ILLINOIS: An in-house lawyer may apply for a limited license to represent the attorney's employer/business organization in any matter not otherwise requiring *pro hac vice* admission. If the attorney is newly employed as in-house counsel in the state of Illinois, the attorney has 180 days to file an application for his or her limited license. ILL. SUPR. CT. R. 716.

INDIANA: An attorney may obtain a Business Counsel License to represent his or her employer/business organization so long as the attorney has been admitted to practice law in the highest court of any other state, has become a resident of Indiana to accept or continue employment by a business in Indiana, and will engage solely in representing the employer/business organization. Further, the attorney's entire compensation must come from such employer/business organization. IND. RULES OF CT. R. 6 § 2.

IOWA: An attorney may provide in-house counsel to his or her employer/business organization by properly registering with the Iowa Supreme Court. In-house counsel registered pursuant to this rule may not provide any service for the employer/business organization that would not otherwise require *pro hac vice* admission. In-house counsel registration remains in effect for five years. IOWA CT. R. 31.16.

KANSAS: In-house counsel licensed in another U.S. jurisdiction for at least five years may obtain a temporary restricted license without taking the Kansas bar examination. The attorney must apply for the limited license within ninety days of beginning employment for the Kansas employer/business organization. KAN. SUPR. CT. R. 712.

KENTUCKY: In-house counsel may obtain a limited certificate of admission so long as the attorney meets certain requirements, such as graduation from an accredited law school and admission to practice in the highest court of another U.S. jurisdiction. The attorney must limit all legal work provided in Kentucky to his or her employer/business organization or related entity. The limited certificate terminates if the attorney leaves the employer/business organization unless he or she accepts another position with a Kentucky business organization within thirty days. The applicable fee is \$1,000. KY. SUPR. CT. R. 2.111.

LOUISIANA: Attorneys not admitted to the Louisiana bar pursuant to bar examination may receive a limited license to allow them to provide legal services for Louisiana employers/business organizations. Attorneys must submit a complete application, along with a registration fee (currently \$300), to the Committee on Bar Admissions for the Supreme Court of Louisiana. The limited license is valid for four years and may be renewed upon application. However, the rule does not allow in-house counsel to make appearances in court as lawyers. LA. SUPR. CT. R. XVII § 14.

MAINE: Maine has implemented the ABA rule. *See* ME. RULES OF PROF'L CONDUCT R. 5.5(d).

MARYLAND: Maryland has implemented the ABA rule. *See* MD. LAWYER'S RULES OF PROF'L CONDUCT R. 5.5(d).

MASSACHUSETTS: Massachusetts has implemented ABA Model Rule 5.5(d). *See* MASS. LAWYER'S RULES OF PROF'L CONDUCT R. 5.5(d). Currently, the Board of Bar Overseers has proposed an amendment to the Supreme Judicial Court Rule 4:02 that would create a registration procedure for in-house counsel who are residents of Massachusetts and practicing for an employer/business organization but who are not admitted to practice in the state.

MICHIGAN: In-house counsel practicing in an "institutional setting" may obtain a special certificate of qualification to practice law without examination so long as the attorney is licensed in another U.S. jurisdiction and has actively practiced law for at least three of the five years immediately prior to the application. MICH. RULES FOR THE BD. OF L. EXAM'RS R. 5D.

MINNESOTA: In-house counsel may be admitted without taking the Minnesota bar examination if the attorney is licensed in another state and has practiced law for at least three of the last five years. Minnesota's licensing requirements for in-house counsel differ according to permanent or temporary status. *See* MINN. RULES FOR ADMISSION TO THE BAR R. 9 (providing procedures for temporary in-house counsel licensure); MINN. RULES FOR ADMISSION TO THE BAR R. 10 (providing procedures for permanent in-house counsel licensure).

MISSISSIPPI: Mississippi does not have an exception for in-house counsel acting without bar admission.

MISSOURI: An attorney may receive a limited license upon application to exclusively represent the attorney's employer/business organization. This license also allows the attorney to represent pro bono clients with an organization approved by the Missouri Bar specifically for these purposes. MO. RULES GOVERNING THE MO. BAR & JUDICIARY R. 8.105.

MONTANA: Montana does not have an exception for in-house counsel acting without bar admission.

NEBRASKA: Nebraska has implemented the ABA rule. *See* NEB. RULES OF PROF'L CONDUCT R. 3.505.5(d).

NEVADA: In-house counsel may represent his or her employer/business organization in transactions or extra-judicial matters that are pending in or substantially related to Nevada; however, the attorney may not represent the employer/business organization before a state court. The attorney must file an annual report and pay \$150 to the State Bar of Nevada. NEV. RULES OF PROF'L CONDUCT R. 5.5(A).

NEW HAMPSHIRE: New Hampshire has implemented the ABA rule. *See* N. H. RULES OF PROF'L CONDUCT R. 5.5(d).

NEW JERSEY: Attorneys working as in-house counsel for an employer/business organization in New Jersey must apply for a limited license that allows the attorney to represent the employer/business organization on all legal matters except those before a court of the state. All in-house counsel practicing pursuant to a limited license must complete a special four-hour course on professionalism and ethics. *See* N. J. RULE OF CT. 1:27-2.

NEW MEXICO: An attorney may provide in-house services to his or her employer/business organization other than services requiring *pro hac vice* admission. *See* N. M. RULES OF PROF'L CONDUCT R. 16-505.E.

NEW YORK: New York does not have an exception for in-house counsel acting without bar admission.

NORTH CAROLINA: An attorney may provide in-house services to his or her employer/business organization other than services requiring *pro hac vice* admission. N.C. RULES OF PROF'L CONDUCT R. 5.5(c)(2)(A).

NORTH DAKOTA: An attorney may provide temporary legal services for an employer/business organization pursuant to North Dakota Rule of Professional Conduct 5.5(c). However, if the attorney remains with the employer/business organization in such a way as to constitute a permanent presence in the state, he or she must comply with the registration requirements of North Dakota Admission to Practice Rule 3, including submission of application and application fee.

OHIO: In-house counsel must register in order to represent his or her employer/business organization for legal services other than those requiring *pro hac vice* admission. This registration must be renewed biennially. SUPR. CT. RULES FOR THE GOV'T OF THE BAR IN OHIO R. VI § 3.

OKLAHOMA: Oklahoma has adopted the ABA rule. See OKLA. RULES OF PROF'L CONDUCT R. 5.5.

OREGON: In-house counsel may represent an employer/business organization for the employer's matters but may not represent the employer before a state court. The attorney must apply for admission to practice law in the state, along with the requisite application fee (currently \$625), and the attorney must take the state Professional Responsibility Examination. See RULES FOR ADMISSION OF ATT'YS TO THE SUPR. CT. OF THE STATE OF OR. R. 16.05.

PENNSYLVANIA: In-house counsel performing legal services for a Pennsylvania employer/business organization must obtain a Limited In-House Corporate Counsel License to provide these services on a continuous basis. This rule also allows in-house counsel to provide pro bono services with authorized legal societies or a licensed attorney of the Pennsylvania bar. See PA. RULES OF PROF'L CONDUCT R. 5.5; PA. BAR ADMISSION R. 302.

RHODE ISLAND: An attorney may register as in-house counsel with the Supreme Court of Rhode Island. The in-house attorney may provide legal services for his or her employer/business organization but may not represent the employer/business organization in court or any contested legal proceeding. The attorney will be subject to the Rhode Island disciplinary procedures and Rules of Professional Conduct and must comply with the Rhode Island continuing legal education requirements. R.I. SUPR. CT. RULES, Article II, R. 9.

SOUTH CAROLINA: An attorney may apply for a limited certificate of admission if the attorney is employed in the legal department or under the supervision of the legal department of the attorney's employer/business organization. The attorney may represent the employer/business organization before any state agency or civil magistrate. The attorney may also represent the employer/business organization before state court if the attorney associates as co-counsel with a member of the South Carolina bar. S. C. APP. CT. R. 405.

SOUTH DAKOTA: South Dakota has adopted the ABA rule. See S. D. RULES OF PROF'L CONDUCT R. 5.5.

TENNESSEE: Tennessee has recently adopted the ABA rule, effective January 1, 2010. Additionally, by an October 2009 order, the Supreme Court of Tennessee has adopted a registration requirement for corporate counsel, as well as an amnesty provision for lawyers complying with all requirements

by June 30, 2010, and a "Katrina Rule," allowing pro bono work in response to disasters.

TEXAS: Texas does not have an in-house counsel rule permitting out-of-state lawyers to practice law in-state for corporate clients without passing the Texas bar examination. However, the Texas Board of Law Examiners issued a Policy Statement on Practice Requirements which provides that out-of-state attorneys acting as in-house counsel for Texas business organizations are deemed to be lawful when providing legal services to that business organization. See <http://www.ble.state.tx.us/atty_us/main_attyus.htm> (follow link "Policy Statement on Practice Requirements").

UTAH: In-house counsel must apply for special admission to the state bar and must limit all legal representation to services provided to the attorney's employer/business organization. This privilege does not include practice in a state court. UTAH RULES OF PROF'L CONDUCT R. 14-720.

VERMONT: Vermont has recently adopted the ABA rule. See VT. RULES OF PROF'L CONDUCT R. 5.5(d).

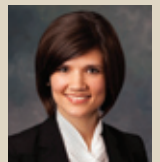
VIRGINIA: An attorney may apply for a Corporate Counsel Certificate for practice privileges limited to representing the attorney's employer/business organization, but these privileges do not extend to matters before a state court. VA. SUPR. CT. R. 1A:5.

WASHINGTON: In-house lawyers may provide legal services in without being admitted to practice in the state, as long as the services are not those for which *pro hac vice* admission is required. Further, an attorney admitted on the basis of practicing as an in-house counsel may also provide pro bono services through a qualified legal services agency. WASH. RULES OF PROF'L CONDUCT R. 5.5(d), (e).

WEST VIRGINIA: In-house counsel may apply to the West Virginia State Bar for admission to practice for the limited purpose of providing legal service to the attorney's employer/business organization. This rule operates in a reciprocal manner. West Virginia will only admit an attorney pursuant to this rule so long as the state in which that attorney is admitted to practice would allow a member of the West Virginia bar to be admitted to that state without having to take that state's bar examination. See W. VA. CODE § 30-2-2 (2009).

WISCONSIN: In-house counsel may practice in Wisconsin without being admitted to the state bar if the attorney meets certain registration requirements. For example, the attorney must register within 60 days of becoming an in-house counsel in Wisconsin and must pay the application fee (currently \$250). Wis. SUPR. CT. R. 10:03.

WYOMING: Wyoming's rule for in-house counsel follows the ABA rule. See WYO. RULES OF PROF'L CONDUCT R. 5.5(d).



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