

## **Multijurisdictional Real Estate Practice and the New ABA Model Rules**

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### A. BRIEF HISTORY OF THE MULTIJURISDICTIONAL DEBATE

1. In the early 1900s, states began enacting “unauthorized practice of law” (“UPL”) legislation that prohibited persons (lawyers and non-lawyers) not licensed in a state from practicing law within that state. The most widely stated purpose of the UPL laws was to ensure that a state’s citizens were represented by qualified legal practitioners. A state's UPL restrictions also operate to protect the livelihood of lawyers practicing within the state. Historically, the UPL laws had little impact on an attorney’s conduct; the lawyer typically represented only clients that lived or were organized in his or her state and the clients’ needs were limited to application of the laws of the lawyer’s home state.
2. As clients’ business needs expanded nationally and internationally during the twentieth century, however, clients increasingly sought advice from their attorneys in regard to transactions that crossed the borders of the lawyers’ home states. With technological advances, changes in our transportation systems and the expansion of our economy, this cross-border, or multijurisdictional, practice led lawyers to travel to other states to negotiate or close transactions, to negotiate documents governed by the laws of other states and to sometimes render advice with respect to the application of other states’ laws to the client’s business dealings.
3. As lawyers more frequently crossed state lines (literally and figuratively) in service to their clients, the UPL laws were invoked not only by the states to prohibit lawyers licensed in another jurisdiction (but not licensed in the host state) from practicing in the host state, but also by clients in fee disputes with their attorneys. A key question that arose from many of these UPL cases was: under what circumstances is a lawyer licensed in one state practicing “in” another state when the transaction involves parties, laws, contract rights or other property situated in or governed by the laws of more than one jurisdiction? (An excellent survey of UPL decisions appears in William T. Barker, *Extrajurisdictional Practice by Lawyers*, 56 BUS. LAW. 1501 (2001), which is available for review at <http://www.abanet.org/cpr/mjp-home.html>.)

4. Perhaps the most significant case giving rise to the recent study of the American Bar Association (“ABA”) *Model Rules of Professional Conduct* applicable to multijurisdictional practice was the California Supreme Court’s decision in *Birbrower, Montalbano, Condon & Frank, P.C. v. Superior Court*, 949 P.2d 1 (Cal. 1998). In *Birbrower*, New York licensed lawyers were sued by their client for legal malpractice and related claims; the New York firm counterclaimed for attorneys' fees for work it had performed in both California and New York. The *Birbrower* court found that the New York lawyers had practiced law (without a license) “in” California and were not permitted to collect fees for services constituting the practice of law in California, by virtue of the following facts: the New York law firm, which had represented the client on matters of New York law for a number of years, consulted with the client, in New York, in regard to a contract governed by the laws of California; the New York lawyers traveled to California (where the other party maintained its principal place of business) on more than one occasion to meet with the other party and to negotiate resolution of the dispute; and the New York attorneys commenced arbitration with a California office of the American Arbitration Association.
5. In response to the *Birbrower* decision and similar developments in other states, ABA President Martha Barnett appointed the Commission on Multijurisdictional Practice (the “Commission”) in July 2000 to, *inter alia*, “study and report on the application of current ethics and bar admission rules to the multijurisdictional practice of law” and to “make policy recommendations to govern the multijurisdictional practice of law that serve the public interest.” American Bar Association, *Report of the Commission on Multijurisdictional Practice* (Aug. 2002) (cited herein as the *MJP Report*), at 1, available at [www.abanet.org/cpr/mjp-home.html](http://www.abanet.org/cpr/mjp-home.html).
6. After numerous hearings, much study and extended debate, the Commission issued its final recommendations in June 2002, which were adopted by the ABA House of Delegates on August 12, 2002. *See MJP Report, supra*.
7. Among the recommendations approved by the ABA House of Delegates were amendments to Model Rule 5.5 that relax previously existing constraints on cross-border practices (which, together with the attendant official comments, are in Attachment A, *infra* pages 10-13), amendments to Model Rule 8.5 that subject lawyers providing legal services in a state to the disciplinary authority of that state

regardless of the attorney's state of licensure, and a Model Rule for Temporary Practice by Foreign Lawyers that allows foreign counsel to provide legal services on a temporary basis in the United States in certain circumstances that closely parallel the permitted cross-border practices authorized by Model Rule 5.5. Additionally, the ABA House of Delegates approved a number of other Model Rule revisions and new Model Rules intended to relax the UPL restrictions that exist in various jurisdictions, including amended Model Rule 6A and proposed Model Rule 22 (promoting reciprocal disciplinary enforcement by a state in which the attorney has practiced and the state in which the attorney is licensed), a Model Rule on "Pro Hac Vice Admission" with respect to practice before courts and tribunals of other states, a Model Rule on "Admission by Motion" under which an attorney can pursue permanent admission to another jurisdiction's bar without taking its bar examination, and promotion of the states' adoption of a Model Rule for the "Licensing of Legal Consultants" that permits a counselor outside the United States to advise American clients about the laws of the counselor's home nation. For a detailed description of the Commission's recommendations, *see MJP Report, supra*.

**B. ABA MODEL RULE 5.5, AS AMENDED IN 2002, AFFIRMATIVELY PERMITS CERTAIN CROSS-BORDER PRACTICES PERFORMED ON A TEMPORARY BASIS**

1. The focus of this presentation is the effect of Amended Model Rule 5.5 (now titled "Unauthorized Practice of Law; Multijurisdictional Practice," *see Attachment A, infra* pages 10-13) on outside legal counsel providing legal services to clients engaged in cross-border business. The model rule is written from the perspective of the state in which the practitioner is not admitted to practice, and the model rule uniformly requires, as a condition to any permitted multijurisdictional conduct, that the lawyer not be suspended from practice or disbarred in any other jurisdiction.
2. Amended Model Rule 5.5 clarifies that certain actions remain prohibited:
  - a. "A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction or assist another in doing so." *Model Rule 5.5(a)*.

- b. "A lawyer who is not admitted to practice in this jurisdiction shall not:
- (1) . . . establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or
  - (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction." *Model Rule 5.5(b)*.

3. Amended Model Rule 5.5(c) affirmatively authorizes certain multijurisdictional practices conducted on a temporary basis:

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

- (1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;
- (2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;
- (3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or
- (4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice. *Model Rule 5.5(c)*.

Comment 5 to Model Rule 5.5, however, states that these four areas of permitted, temporary practice are intended to be examples of authorized cross-border practice: "[t]he fact that conduct is not so identified does not imply that the conduct is or is not authorized."

4. Additionally, Model Rule 5.5(d)(2) permits in-house counsel, if licensed in one United States jurisdiction and not suspended or disbarred from practice in any jurisdiction, to perform legal services in the state to the "lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission."
5. Moreover, Model Rule 5.5(d)(2) states that an attorney licensed in another jurisdiction (and not disbarred or suspended from practice elsewhere) may provide services in the state that the lawyer is "authorized to provide by federal law or other law of this jurisdiction."

C. WHAT CONSTITUTES RENDERING LEGAL SERVICES ON A TEMPORARY BASIS THAT REASONABLY RELATE TO THE LAWYER'S PRACTICE IN THE JURISDICTION IN WHICH THE LAWYER IS ADMITTED TO PRACTICE?

1. The Commission's greatest departure from common law and existing UPL restrictions affecting transactional lawyers lies in Subsection (c)(4) of Model Rule 5.5, which permits a practitioner licensed in one state to provide legal services, on a temporary basis, in other states if the services "arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice." An earlier version of subsection (c)(4) proposed by the Commission in its November 2001 interim report had limited cross-border transactional practice to non-litigation work ancillary to the lawyer's representation of a client in the jurisdiction in which the lawyer was licensed to practice law. After significant testimony by transactional lawyers (represented by ACREL, the ABA Business Law and Real Property and Trust Law Sections and other organizations), the Commission ultimately recognized that permitted cross-border practices should not be dependent upon the lawyer's prior representation of the client in the lawyer's state of licensure.
2. In its report, the Commission did not state, explicitly, what constitutes a reasonable relationship to the lawyer's practice in his or her state of licensure. Rather, the Commission stated, in Comment 14 to Model Rule 5.5, that a "variety of factors evidence such a relationship," citing as examples that the client may have previously engaged the lawyer in question, the client may be a resident of or have substantial contacts in the lawyer's home state, the matter at issue may have "significant connection" with the lawyer's home state or "when the client's

activities or the legal issues involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their lawyer in assessing the relative merits of each."

3. Comment 5 to Model Rule 5.5 states that "continuous presence" in a jurisdiction "may be systematic and continuous even if the lawyer is not physically present" in the state, and a lawyer not licensed in the state "must not hold out to the public or otherwise represent that the lawyer is admitted to practice law" in the host jurisdiction.
4. Comment 6 further states that there "is no single test to determine whether a lawyer's services are provided on a 'temporary basis,'" given that professional advice may be temporary "even though the lawyer provides services in this jurisdiction on a recurring basis, or for an extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or litigation."

#### D. PRACTICE TIPS FOR THE REAL ESTATE ATTORNEY ENGAGED IN CROSS-BORDER PRACTICE

1. Practitioners must be mindful that Model Rule 5.5., as amended, only applies in those United States jurisdictions that have adopted the amended rule. The Commission affirmed in its report its belief that "the principle of the regulation of the practice of law by the state judicial branch of government, which includes jurisdictional limits on the legal practice, should be preserved. . . ." *MJP Report*, at 13.
2. As of January 31, 2005, the ABA reported that that the revision of Model Rule 5.5 on multijurisdictional practice, and the related amendments to Model Rule 8.5 on disciplinary authority in cases involving cross-border practice, have been adopted in form identical to or substantially similar to the 2002 Model Rule Revisions in the highest courts of 14 states: Arizona, California, Colorado, Delaware, Georgia, Idaho, Indiana, Nevada, New Jersey, North Carolina, North Dakota, Oregon, Pennsylvania, and South Dakota. Recommendations to adopt the model rule revisions in form identical or substantially similar to the 2002 Model Rule Revisions are pending in the highest courts of 13 states: Arkansas, Florida, Illinois, Iowa, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New York, and South Carolina. MJP Study Committees in three

other states have recommended adoption of rules identical or similar to the 2002 Model Rules (Maryland, Washington and Wisconsin; in Connecticut the study committee recommended adoption of a similar rule to MR 5.5 but the Connecticut bar rejected that recommendation on January 12, 2004). Twenty (20) other jurisdictions have created study committees to consider the 2002 Model Rules revisions. For a summary of the status of implementation of revised Model Rule 5.5 in the various United States jurisdictions as of January 31, 2005, *see* the ABA table in Attachment B, *infra* pages 14-17. For a more detailed statement of the status of the various jurisdictions' implementation of Model Rule 5.5, Model Rule 8.5 and Model Rule for Temporary Practice by Foreign Lawyers, as of January 31, 2005, *see* the ABA table in Attachment C, *infra* pages 18-33 (which includes state specific websites). For a summary description of the implementation of Model Rule 8.5, *see* the ABA table in Attachment D, *infra* pages 34-37. Note that each of these summary tables are regularly updated and posted to the Commission's website, [www.abanet.org/cpr/mjp-home.html](http://www.abanet.org/cpr/mjp-home.html).

3. Because the separate jurisdictions' review and implementation processes for revised Model Rule 5.5, and the corresponding revisions to Model Rule 8.5, are ongoing, the real estate practitioner, before providing advice with respect to a transaction that involves the laws of, parties related to or property in another state, should consult the current status of such other state's implementation of the Model Rule revisions. The ABA tables attached to this outline are an excellent source of information.
4. Furthermore, as noted by the Commission, "restrictions on unauthorized practice of law are also embodied in laws and rules that differ from state to state," such that care must be exercised by the practitioner venturing across state borders to ensure that appropriate legislative reform has been coupled with adoption of the Model Rules. *MJP Report*, at 23. Attachment C, *infra* pages 18-33, provides some guidance in this area.
5. Commentators on the Commission's Model Rule revisions have noted that revisions to Model Rule 8.5 (which subjects the cross-border lawyer to the disciplinary authority of both the lawyer's home state and the state in which the lawyer provides legal advice and includes choice of law provisions governing the issue of which state's disciplinary rules apply) appear to be the "price that lawyers must pay for the opportunity for limited interstate practice." ABA/BNA Lawyers'

Manual on Professional Conduct, *Conference Report*, August 14, 2002. (Note that, even in-house lawyers, under revised Model Rule 8.5, would be subject to the disciplinary authority of the host state, and in-house counsel must be mindful that they may still be subject to the host state's licensing and registration requirements. *Model Rule 5.5, comment 17*). A complete compilation of amended Model Rule 8.5, and the Comments thereto, are set forth in Appendix C to the *MJP Report*.

6. As the Commission cautions, "in the context of determining whether work performed outside the lawyer's home state is reasonably related to the lawyer's practice in the home state, as is true in the many other legal contexts in which a 'reasonableness' standard is employed, some judgment must be exercised." *MJP Report*, at 29.
7. Real estate lawyers must remain mindful of a separate ethical standard, set forth in Model Rule 1.1 (and adopted in most, if not all, states), which mandates that a "lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation necessary for the representation." As noted in Raymond J. Werner, *Licensed in One State, But Practicing in Another: Multijurisdictional Practice*, PROBATE AND PROPERTY (March/April 2003) 6, at 9:

If the lawyer knows or is concerned that a certain legal issue may be treated differently under the law of a state that governs a transaction, the lawyer is duty bound to investigate that issue and react accordingly. Acquiring knowledge of relevant law and using it are merely aspects of the professionalism that sophisticated clients expect and to which all clients are entitled. Moreover, the lawyer has an obligation to explain matters to the client so as to enable the client to make an informed decision regarding matters that are the subject of the representation. *Model Rule 1.4(b)*. If the lawyer believes that there are limits on the lawyer's ability to represent the client, the lawyer must so inform the client so the client can decide how to proceed.

The prudence of informing the client that the lawyer is not licensed in a particular jurisdiction was reinforced by the Commission in Comment 20 to amended Model Rule 5.5: "In some circumstances, a lawyer who practices law in this jurisdiction

. . .may have to inform the client that the lawyer is not licensed . . .in this jurisdiction. For example, that may be required when the representation occurs primarily in the jurisdiction and requires knowledge of the laws of this jurisdiction. See Rule 1.4(b)."

8. Engaging local counsel, while recognized in Model Rule 5.5.(c)(1) as a legitimate safe harbor, still requires that local counsel "actively participate in and share responsibility for the representation of the client." *Model Rule 5.5, Comment 8.*

ATTACHMENT A

Redlined version of Rule 5.5 of the ABA Model Rules of Professional Conduct

**RULE 5.5: UNAUTHORIZED PRACTICE OF LAW;  
MULTIJURISDICTIONAL PRACTICE OF LAW**

(Material added to the new version of Rule 5.5 of the ABA *Model Rules of Professional Conduct* is underlined. Deletions are ~~struck through~~.)

(a) A lawyer shall not: ~~(a) practice law in a jurisdiction where doing so violates in violation of the regulation of the legal profession in that jurisdiction;~~ or ~~(b) assist a person who is not a member of the bar another in the performance of activity that constitutes the unauthorized practice of law doing so.~~

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

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

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

(c) A lawyer admitted in another United States

jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

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

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

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

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

(d) A lawyer admitted in another United States

jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services 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.

## Comment

[1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer assisting another person.

[2] The definition of the practice of law is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. Paragraph (b) This Rule does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work. See Rule 5.3.

[3] ~~Likewise, it does not prohibit lawyers from providing~~ A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed pro se.

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

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

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

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

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

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

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

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

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

[13] Paragraph (c)(4) permits a lawyer admitted in another jurisdiction to provide certain legal services on a temporary basis in this jurisdiction that arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted but are not within paragraphs (c)(2) or (c)(3). These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers.

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

involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their lawyer in assessing the relative merits of each. In addition, the services may draw on the lawyer's recognized expertise developed through the regular practice of law on behalf of clients in matters involving a particular body of federal, nationally-uniform, foreign, or international law.

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

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

[17] If an employed lawyer establishes an office or other systematic presence in this jurisdiction for the purpose of rendering legal services to the employer, the lawyer may be subject to registration or other requirements, including assessments for client protection funds and mandatory continuing legal education.

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

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

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

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

**STATE IMPLEMENTATION OF ABA MODEL RULE 5.5  
(MULTIJURISDICTIONAL PRACTICE OF LAW)**

	<b>Highest Court has adopted a rule identical to ABA Model Rule 5.5</b>	<b>Highest Court has adopted a rule similar to ABA Model Rule 5.5</b>	<b>Recommendation pending in highest Court to adopt a rule identical to ABA Model Rule 5.5</b>	<b>Recommendation pending in highest Court to adopt a rule similar to ABA Model Rule 5.5</b>	<b>States whose MJP study committees have recommended adoption of a rule identical to ABA Model Rule 5.5</b>	<b>States whose MJP study committees have recommended adoption of a rule similar to ABA Model Rule 5.5</b>	<b>States that have created committees to study ABA MJP recommendations</b>
	<b>(3)</b>	<b>(11)</b>	<b>(6)</b>	<b>(7)</b>	<b>(2)</b>	<b>(1)</b>	<b>(20)</b>
<b>AL</b>							<b>X</b>
<b>AK</b>							<b>X</b>
<b>AZ</b>		<b>X</b>					
<b>AR</b>			<b>X</b>				
<b>CA</b>		<b>X</b>					
<b>CO</b>		<b>X</b>					
<b>CT</b>						<b>1/12/04- CT Bar Rejected</b>	
<b>DE</b>	<b>X</b>						
<b>DC</b>							<b>X</b>
<b>FL</b>				<b>X</b>			
<b>GA</b>		<b>X</b>					
<b>HI</b>							<b>X</b>
<b>ID</b>		<b>X</b>					
<b>IL</b>			<b>X</b>				

	Highest Court has adopted a rule identical to ABA Model Rule 5.5	Highest Court has adopted a rule similar to ABA Model Rule 5.5	Recommendation pending in highest Court to adopt a rule identical to ABA Model Rule 5.5	Recommendation pending in highest Court to adopt a rule similar to ABA Model Rule 5.5	States whose MJP study committees have recommended adoption of a rule identical to ABA Model Rule 5.5	States whose MJP study committees have recommended adoption of a rule similar to ABA Model Rule 5.5	States that have created committees to study ABA MJP recommendations
	(3)	(11)	(6)	(7)	(2)	(1)	(20)
IN	X						
IA			X				
KS							X
KY							X
LA				X			
ME							X
MD					X		
MA							X
MI			X				
MN				X			
MS							X
MO				X			
MT			X				
NE			X				
NV		X					
NH				X			
NJ		X					

	Highest Court has adopted a rule identical to ABA Model Rule 5.5	Highest Court has adopted a rule similar to ABA Model Rule 5.5	Recommendation pending in highest Court to adopt a rule identical to ABA Model Rule 5.5	Recommendation pending in highest Court to adopt a rule similar to ABA Model Rule 5.5	States whose MJP study committees have recommended adoption of a rule identical to ABA Model Rule 5.5	States whose MJP study committees have recommended adoption of a rule similar to ABA Model Rule 5.5	States that have created committees to study ABA MJP recommendations
	(3)	(11)	(6)	(7)	(2)	(1)	(20)
NM							X
NY				X			
NC		X					
ND		X					
OH							X
OK							X
OR	X						
PA		X					
RI							X
SC				X			
SD		X					
TN							X
TX							X
UT							X

	Highest Court has adopted a rule identical to ABA Model Rule 5.5 <b>(3)</b>	Highest Court has adopted a rule similar to ABA Model Rule 5.5 <b>(11)</b>	Recommendation pending in highest Court to adopt a rule identical to ABA Model Rule 5.5 <b>(6)</b>	Recommendation pending in highest Court to adopt a rule similar to ABA Model Rule 5.5 <b>(7)</b>	States whose MJP study committees have recommended adoption of a rule identical to ABA Model Rule 5.5 <b>(2)</b>	States whose MJP study committees have recommended adoption of a rule similar to ABA Model Rule 5.5 <b>(1)</b>	States that have created committees to study ABA MJP recommendations <b>(20)</b>
<b>VT</b>							<b>X</b>
<b>VA</b>							<b>X</b>
<b>WA</b>					<b>X</b>		
<b>WV</b>							<b>X</b>
<b>WI</b>						<b>X</b>	
<b>WY</b>							<b>X</b>

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As of January 31, 2005

**STATE IMPLEMENTATION OF ABA MJP RECOMMENDATIONS**

- (1) RULE 5.5: UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW**
- (2) RULE 8.5: DISCIPLINARY AUTHORITY; CHOICE OF LAW**
- (3) *PRO HAC VICE* ADMISSION**
- (4) ADMISSION BY MOTION**
- (5) FOREIGN LEGAL CONSULTANTS**
- (6) TEMPORARY PRACTICE BY FOREIGN LAWYERS**

<p><b>Alabama</b></p>	<p>Ongoing review of professional conduct rules by State Bar Committee on Disciplinary Rules and Enforcement.</p>
<p><b>Alaska</b></p>	<p>Bar Association Rules of Professional Conduct Committee conducting review.</p>
<p><b>Arizona</b></p>	<p>On June 8, 2004, the Supreme Court of the State of Arizona entered an order adopting amended Rules 5.5 (Unauthorized Practice of Law) and Rule 8.5 (Jurisdiction), effective December 1, 2004, allowing multijurisdictional practice of law by lawyers admitted in another United States jurisdiction.</p> <p><b>(1) ER 5.5 Unauthorized Practice of Law</b>          Rule 5.5 is identical to ABA Model Rule 5.5 but adds three paragraphs making it clear that: lawyers engaged in multijurisdictional practice must advise their clients that they are not admitted to practice law in Arizona and must obtain the client's informed consent to the representation; out of state lawyers who appear in court or before any administrative hearing officer must comply with the <i>pro hac vice</i> admission rules; and out of state lawyers are subject to the Arizona Rules of Professional Conduct and the Rules of the Supreme Court regarding attorney discipline.</p> <p><b>(2) ER 8.5 Jurisdiction</b>          Identical to ABA Model Rule 8.5.</p> <p><b>(3) New Pro Hac Vice Admission Rule</b>, effective September 1, 2002: <a href="http://www.azbar.org/AttorneyResources/pro_hac.cfm">http://www.azbar.org/AttorneyResources/pro_hac.cfm</a></p> <p><b>(4) Declined to recommend adoption.</b> Do not have a rule.</p> <p><b>(5) Declined to recommend adoption.</b> Have a rule. 17A, A.R.S. Sup. Ct. Rules, Rule 33(f) (Effective June 1, 1998)</p> <p><b>(6) Declined to recommend adoption.</b> Do not have a rule.</p>
<p><b>Arkansas</b></p>	<p>On April 7, 2003, the State Bar Professional Ethics Committee issued a report.</p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>          Identical to ABA Model Rule 5.5 (Approved by Bar on June 14, 2003)</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>          Identical to ABA Model Rule 8.5 (Approved by Bar on June 14, 2003)</p> <p><b>(3) Conducting review.</b> Have a rule already: Arkansas Supreme Court Rule XIV <a href="http://courts.state.ar.us/rules/barrule.html#XIV">http://courts.state.ar.us/rules/barrule.html#XIV</a></p> <p><b>(4) Admission by Motion Rule.</b> On February 26, 2004, the Arkansas Supreme Court adopted, effective October 1, 2004, an Admission by Motion Rule. Similar to ABA Rule but requires reciprocity, fee (\$1500) and designate Clerk of the Court for service of process. <a href="http://courts.state.ar.us/opinions/2004a/20040226/admission.html">http://courts.state.ar.us/opinions/2004a/20040226/admission.html</a></p> <p><b>(5) Conducting review.</b> Do not have a rule.</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>
<p><b>California</b></p>	<p>On April 8, 2004, the California Supreme Court adopted the recommendations of the Court's Multijurisdictional Practice Implementation Committee. The new Rules are effective November 15, 2004.</p> <p><b>(1) and (2) Rules 966 (part of litigation) and 967 (non-litigation matter)</b> permit lawyers who are licensed to practice in a U.S. jurisdiction, other than California, to temporarily practice law in Ca without registering with the state bar. Under Rule 967, a "material aspect" of the matter has to take place in a jurisdiction other than California and in which the lawyer is licensed to practice law. <b>Rule 964</b> allows <i>registered</i> legal services lawyer to practice up to 3 years. Rule 965 allows for <i>registered</i> in-house counsel. Out-of-state lawyers subject to California Rules of Professional Conduct, courts and the State Bar. Fees for in-house/legal services lawyers: \$550 to apply, \$363 moral character check, \$390 annual State Bar fee and 25 hours CLE.</p> <p><b>(3) Declined to recommend adoption.</b> Have a rule: Rule 983 of the California Rules of Court.</p> <p><b>(4) Declined to recommend adoption.</b> Do not have a rule.</p> <p><b>(5) Declined to recommend adoption.</b> Have a rule: Rule 988 of the California Rules of Court (Enacted April 2, 1987)</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>

As of January 31, 2005

<p><b>Colorado</b></p>	<p>(1) and (2) <b>Colorado Rules of Civil Procedure, Rule 220. Out-Of-State Attorney – Conditions of Practice</b> (effective January 1, 2003).          An out-of-state lawyer may practice law in Colorado except that an out-of-state lawyer who wishes to appear in any state court of record must comply with the rule concerning <i>pro hac vice</i> admission and an out-of-state lawyer who wishes to appear before any administrative tribunal must comply with the rule concerning <i>pro hac vice</i> admission before state agencies.          An out-of-state lawyer practicing law under this rule is subject to the Colorado Rules of Professional Conduct and rules of procedure regarding attorney discipline and disability proceedings.  <a href="http://www.cobar.org/group/display.cfm?GenID=2735">http://www.cobar.org/group/display.cfm?GenID=2735</a>          (3) <b>Not addressed.</b> Have a rule, reciprocity required. Colorado Admission Rule 201.3(1)  <a href="http://www.coloradosupremecourt.com/BLE/Forms/Rules.htm">http://www.coloradosupremecourt.com/BLE/Forms/Rules.htm</a>          (4) <b>Rule 221. Out-Of-State Attorney-Pro Hac Vice Admission</b> (Adopted prior to ABA recommendations, effective January 1, 2003)          Similar to ABA <i>Model Rule on Pro Hac Vice Admission</i>, \$250 fee.          (5) <b>Not addressed.</b> Do not have a Foreign Legal Consultant Rule.          (6) <b>Not addressed.</b> Do not have a rule.</p>
<p><b>Connecticut</b></p>	<p>On January 12, 2004 the House of Delegates of the Connecticut Bar Association rejected the Connecticut Bar Association Task Force on Multijurisdictional Practice recommendation to adopt a rule similar to ABA Model Rule 5.5.</p>
<p><b>Delaware</b></p>	<p>(1) <b>Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>          Identical to ABA Model Rule 5.5 (Effective July 1, 2003).          (2) <b>Rule 8.5: Disciplinary Authority; Choice of Law</b>          Identical to ABA Model Rule 8.5 (Effective July 1, 2003). <a href="http://courts.state.de.us/supreme/pdf/FinalDLRPCclean.pdf">http://courts.state.de.us/supreme/pdf/FinalDLRPCclean.pdf</a>          (3) <b>Conducting review.</b> Have a rule already: Delaware Supreme Court Rule 71. Admission <i>pro hac vice</i>.  <a href="http://courts.state.de.us/supreme/rules.htm">http://courts.state.de.us/supreme/rules.htm</a>          (4) <b>Conducting review.</b> Do not have a rule.          (5) <b>Conducting review.</b> Do not have a rule.          (6) <b>Conducting review.</b> Do not have a rule.</p>
<p><b>District of Columbia</b></p>	<p>On October 15, 2004, the Committee on the Unauthorized Practice of Law of the District of Columbia Court of Appeals issued opinion 14-04 that states a foreign lawyer may engage in the incidental practice of law in the District.  <a href="http://www.dcappeals.gov/dccourts/docs/rule49_opinion14-04.pdf">http://www.dcappeals.gov/dccourts/docs/rule49_opinion14-04.pdf</a>            MJP Committee established in November 2001.</p>

<p><b>Florida</b></p>	<p>On February 9, 2004, The Florida Bar filed a Petition to Amend the Rules Regulating The Florida Bar and the Florida Rules of Judicial Administration to allow for the multijurisdictional practice of law. The Petition can be found at: <a href="http://www.flabar.org/tfb/TFBComm.nsf/basic+view/C0B5C0F13119379185256EE1004AB2D1?OpenDocument">http://www.flabar.org/tfb/TFBComm.nsf/basic+view/C0B5C0F13119379185256EE1004AB2D1?OpenDocument</a></p> <p><b>(1) Rule 4-5.5 Unlicensed Practice of Law, Multijurisdictional Practice of Law</b>          Similar to ABA Model Rule 5.5 except do not adopt 5.5(d)(1) (in-house-counsel provision) and provides for temporary practice by foreign lawyers. However, proposed new Rule 1-3.11 of the Rules Regulating The Florida Bar would require out-of-state lawyers to file a statement with The Florida Bar in all domestic arbitration proceedings and pay a \$250 fee. Out-of-state lawyers would be limited to 3 domestic arbitrations in a 365-day period. Lawyers appearing in international arbitrations are exempted from this proposed Rule.</p> <p><b>(2) Rule 3-4.1 Notice and Knowledge of Rules; Jurisdiction Over Attorneys of Other States and Rule 3-4.6 Discipline By Foreign or Federal Jurisdiction; Choice of Law</b>          Similar to ABA Model Rule 8.5.except in (b)(2), last sentence is deleted. (Deleted language: <i>A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.</i>)</p> <p><b>(3) Declined to adopt.</b> Report recommends amendments to existing <i>pro hac</i> admission rule (3 appearances per year, \$250 fee to Bar (\$25 of that to Client Security Fund) and a uniform motion for admission.)</p> <p><b>(4) Declined to adopt ABA Model Rule on Admission by Motion.</b> Must take bar examination to be admitted.</p> <p><b>(5) Declined to adopt ABA Model Rule for the Licensing of Legal Consultants.</b> Have a rule already: F.S.A. Bar Rule 16-1.5, Rules Regulating The Florida Bar, Chapter 16, Foreign Legal Consultancy Rule (Added July 23, 1992, effective Jan. 1, 1993).</p> <p><b>(6) Rule 4-5.5(d) Authorized Temporary Practice by Lawyer Admitted in a Non-United States Jurisdiction.</b>          Similar to ABA <i>Model Rule on Temporary Practice by Foreign Lawyers.</i></p>
<p><b>Georgia</b></p>	<p><b>On June 8, 2004 the Georgia Supreme Court adopted new MJP Rules:</b></p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>          Similar to ABA Model Rule 5.5 but distinguishes between “Domestic” and “Foreign” lawyers but allows both to engage in the temporary practice of law.</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>          Similar to ABA Model Rule 8.5. Applies to both “Domestic” and “Foreign” lawyers.</p> <p><b>(3) Recommendation to adopt ABA Model Rule on Pro Hac Vice Admission.</b> GA already has a <i>pro hac</i> rule. (Approved by Bar on April 5, 2003)</p> <p><b>(4) Declined to adopt.</b> Court amended its admission rules on December 12, 2002 to allow admission by motion. (Reciprocity and fee required). (Approved by Bar on April 5, 2003)</p> <p><b>(5) Adopted</b> equivalent of ABA <i>Model Rule for the Licensing of Legal Consultants.</i> Georgia Supreme Court Rules Governing Admission to the Practice of Law in Georgia, Part E (Effective September 3, 2004). Fee: \$1000; renewal \$100.  <a href="http://www2.state.ga.us/Courts/Supreme/pdf/foreign_law_bar_ex_rule.pdf">http://www2.state.ga.us/Courts/Supreme/pdf/foreign_law_bar_ex_rule.pdf</a></p> <p><b>(6) Rule 5.5 adopted by Georgia Supreme Court on June 8, 2004 allows temporary practice of law by “Foreign” lawyers. See #1 above.</b>  <a href="http://www2.state.ga.us/Courts/Supreme/amended_rules/6_8_2004_order.htm">http://www2.state.ga.us/Courts/Supreme/amended_rules/6_8_2004_order.htm</a></p>
<p><b>Hawaii</b></p>	<p>Disciplinary Board of Supreme Court Ethics 2000 Committee conducting review.</p>

<p><b>Idaho</b></p>	<p>On March 15, 2004, the Idaho Supreme Court amended the Rules of Professional Conduct, effective July 1, 2004.</p> <p><a href="http://www.isc.idaho.gov/irpc0304_ord.htm">http://www.isc.idaho.gov/irpc0304_ord.htm</a></p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law</b>          Similar to ABA Model Rule 5.5. Only 4 exceptions: preparing for potential proceeding in which the lawyer expects to be admitted, employee of client, acts with respect to a matter that arises out of or is reasonably related to the lawyer's representation of a client in a jurisdiction in which the lawyer is admitted to practice, or associated with Idaho counsel. Deletes the word "United States" before the word jurisdiction in Rule 5(c).</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>          Identical to ABA Model Rule 8.5.</p> <p><b>(3) Not addressed.</b> Have a rule: Idaho Bar Commission Rule 222. Limited Admission/<i>Pro Hac Vice</i>.  <a href="http://www2.state.id.us/isb/rules/ibcr/admission_rules.htm">http://www2.state.id.us/isb/rules/ibcr/admission_rules.htm</a></p> <p><b>(4) Not addressed.</b> Has reciprocity admission rule allowing Oregon and Washington lawyers to be admitted without examination under certain conditions; coordinating discussion of new ABA Model Rules, including new MJP rules, with Oregon, Utah and Washington.</p> <p><b>(5) Not addressed.</b> Do not have a rule.</p> <p><b>(6) Not addressed.</b> Do not have a rule.</p>
<p><b>Illinois</b></p>	<p>Effective July 1, 2004. Rule 716. Limited Admission of House Counsel. <a href="http://www.state.il.us/court/SupremeCourt/Rules/MRAmend021104.htm#716">http://www.state.il.us/court/SupremeCourt/Rules/MRAmend021104.htm#716</a></p> <p>The report of the Joint CBA/ISBA Committee on Ethics 2000, formed to review the work of the ABA's Ethics 2000 Commission and recommend changes to the current Illinois Rules of Professional Conduct, is available in <a href="#">PDF format</a>. The ISBA Assembly is scheduled to act on the report at its June 2004 meeting  <a href="http://www.isba.org/ethics2000.pdf">http://www.isba.org/ethics2000.pdf</a></p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>          Identical to ABA Model Rule 5.5.          (Pending before Court's Committee on the Rules of Professional Responsibility).</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>          Identical to ABA Model Rule 8.5.          (Pending before Court's Committee on the Rules of Professional Responsibility).</p> <p><b>(3) Conducting review.</b> Have a rule: Illinois Supreme Court Rule 707. Foreign Attorneys in Isolated Cases.  <a href="http://www.state.il.us/court/SupremeCourt/Rules/Art_VII/artvii.htm#Rule707">http://www.state.il.us/court/SupremeCourt/Rules/Art_VII/artvii.htm#Rule707</a></p> <p><b>(4) Conducting review.</b> Have a rule: Illinois Supreme Court Rule 705  <a href="http://www.state.il.us/court/SupremeCourt/Rules/Art_VII/artvii.htm#Rule%20705">http://www.state.il.us/court/SupremeCourt/Rules/Art_VII/artvii.htm#Rule%20705</a></p> <p><b>(5) Conducting review.</b> Have a rule: Illinois Supreme Court Rules 712 and 713.</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>

<p><b>Indiana</b></p>	<p>On September 30, 2004, the Indiana Supreme Court entered an order amending the Indiana Rules of Professional Conduct, effective January 1, 2005.</p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>  Identical to ABA Model Rule 5.5 except for an insertion of the following sentence into Comment [4] after the second sentence, "For example, advertising in media specifically targeted to Indiana residents or initiating contact with Indiana residents for solicitation purposes could be viewed as systematic and continuous presence."</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>  Similar to ABA Model Rule 8.5 except that in (b)(2), last sentence is deleted. (Deleted language: A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.)</p> <p><b>(3) Conducting review.</b> Have a rule: Indiana Rules for Admission and Discipline, Rule 3, Section 2. Limited Admission on Petition. <a href="http://www.ai.org/judiciary/rules/ad_dis/index.html#r3">http://www.ai.org/judiciary/rules/ad_dis/index.html#r3</a></p> <p><b>(4) Conducting review.</b> Have a rule: Rule 6, Indiana Supreme Court Rules for Admission to the Bar <a href="http://www.in.gov/judiciary/rules/ad_dis/index.html#r6">http://www.in.gov/judiciary/rules/ad_dis/index.html#r6</a></p> <p><b>(5) Conducting review.</b> Have a rule: Indiana Rules of Court, Rules for Admission to the Bar and the Discipline of Attorneys, Rule 5</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>
<p><b>Iowa</b></p>	<p>On September 14, 2004, the Iowa Supreme Court published a proposed new set of Rules of Professional Conduct. The Court has requested comments on the new Rules by November 15, 2004.</p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>  Identical to ABA Model Rule 5.5; requires registration for in-house counsel pursuant to new Iowa Court Rule 31.16.</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>  Identical to ABA Model Rule 8.5.</p> <p><b>(3)</b> Have a rule: Iowa Rule of Court 31.14. Admission <i>pro hac vice</i> before Iowa courts and administrative agencies. <a href="http://www.legis.state.ia.us/Rules/2002/court/gna1.pdf">http://www.legis.state.ia.us/Rules/2002/court/gna1.pdf</a></p> <p><b>(4) Conducting review.</b> Have a rule: Iowa Code § 602.10109 <a href="http://www.legis.state.ia.us/IACODE/2001SUPPLEMENT/602/10109.html">http://www.legis.state.ia.us/IACODE/2001SUPPLEMENT/602/10109.html</a></p> <p><b>(5) Conducting review.</b> Do not have a rule.</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>
<p><b>Kansas</b></p>	<p>The Kansas Ethics 2000 Commission submitted its report in June, 2004. The Board of Governors of the Kansas Bar Association has approved the report, and will be publishing it for public comment, before submitting it to the Kansas Supreme Court. The Committee's approved report/recommendations can be found at <a href="http://www.ksbar.org/ethics2000.html">www.ksbar.org/ethics2000.html</a></p> <p><b>1) RULE 5.5 UNAUTHORIZED PRACTICE OF LAW.</b>  Same as the old ABA Model Rule 5.5. No provision for the multijurisdictional practice of law.</p> <p><b>2) RULE 8.5 JURISDICTION</b>  "A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction although engaged in practice elsewhere."</p> <p><b>3) Not addressed.</b> Have a rule: Kansas Supreme Court Rule 1.01(f). Out-Of-State Counsel. <a href="http://www.kscourts.org/ctruls/ctrul108.htm">http://www.kscourts.org/ctruls/ctrul108.htm</a></p> <p><b>4) Not addressed.</b> Do not have a rule.</p> <p><b>5) Not addressed.</b> Do not have a rule.</p> <p><b>6) Not addressed.</b> Do not have a rule.</p>
<p><b>Kentucky</b></p>	<p>Bar Association Ethics Committee conducting review.</p>

<p><b>Louisiana</b></p>	<p>The Report of the Louisiana Bar is pending in the Louisiana Supreme Court.</p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>                  Similar to ABA Model Rule 5.5 except do not adopt 5.5(d)(1) (in-house-counsel provision) and adds an unrelated provision regarding the employment of disbarred or suspended lawyers as law clerks. (Approved by Bar in June 2003)</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>                  Identical to ABA Model Rule 8.5 (Approved by Bar in June 2003)</p> <p><b>(3) Not addressed.</b> Have a rule: <a href="http://www.legis.state.la.us/tsrs/tsrs.asp?lawbody=RS&amp;title=37&amp;section=214">http://www.legis.state.la.us/tsrs/tsrs.asp?lawbody=RS&amp;title=37&amp;section=214</a> (Approved by Bar in June 2003)</p> <p><b>(4) Declined to adopt ABA Model Rule on Admission by Motion.</b> Must take bar examination to be admitted.</p> <p><b>(5) Not addressed.</b> Have a rule: Louisiana Revised Statutes, Title 37, Professions and Occupations, Chapter 4, Attorneys, Article 14, Section 11.</p> <p><b>(6) Adopt ABA Model Rule for Temporary Practice by Foreign Lawyers</b>                  (Approved by Bar in June 2003)</p> <p><b>Other: Recommends adoption of in-house counsel registration rule.</b>  <a href="http://www.lsba.org/Bar_Information/multijurisdictional_practice_c1.html">http://www.lsba.org/Bar_Information/multijurisdictional_practice_c1.html</a></p>
<p><b>Maine</b></p>	<p>Supreme Court Advisory Committee on the Rules of Professional Responsibility conducting review.</p> <p>The Supreme Judicial Court is considering Proposed Amendments to the Maine Bar Admission Rules. These proposed amendments would implement reciprocal admission to the bars of Maine, New Hampshire, and Vermont for qualified attorneys. <a href="http://www.courts.state.me.us/news/notice%20hearing%20bar%20adm2-28.htm">http://www.courts.state.me.us/news/notice%20hearing%20bar%20adm2-28.htm</a></p>
<p><b>Maryland</b></p>	<p>The Maryland Court of Appeals Special Committee on the Maryland Rules of Professional Conduct has released a draft revision of Rules 5.5 and 8.5 of the Maryland Lawyers' Rules of Professional Conduct for public comment.  <a href="http://www.courts.state.md.us/lawyersrope_finalrept03.pdf">http://www.courts.state.md.us/lawyersrope_finalrept03.pdf</a></p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>                  Identical to ABA Model Rule 5.5 with changes in the Comments.</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>                  Identical to ABA Model Rule 8.5. In Comment [1], deletes reference to ABA <i>Model Rules for Lawyer Disciplinary Enforcement</i> and deletes the last sentence. In Comment [4], changes the end of the first sentence to "shall be subject only to the rules of professional conduct of that tribunal."</p> <p><b>(3) Conducting review.</b> Have a rule already: Rules of the Maryland Court of Appeals Governing Admission to the Bar of Maryland, Rule 14.  <a href="http://198.187.128.12/maryland/lpext.dll?f=templates&amp;fn=fs-main.htm&amp;2.0">http://198.187.128.12/maryland/lpext.dll?f=templates&amp;fn=fs-main.htm&amp;2.0</a></p> <p><b>(4) Conducting review.</b> Do not have a rule.</p> <p><b>(5) Conducting review.</b> Do not have a rule.</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>
<p><b>Massachusetts</b></p>	<p>Supreme Court Standing Committee on Rules of Professional Conduct conducting review.</p>
<p><b>Michigan</b></p>	<p>On November 25, 2003 the State Bar of Michigan's forwarded recommendations to the Michigan Supreme Court to amend the Rules of Professional Conduct, including Rules 5.5 and 8.5.  <a href="http://www.michbar.org/">http://www.michbar.org/</a></p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>                  Identical to ABA Model Rule 5.5.</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>                  Identical to ABA Model Rule 8.5.</p> <p><b>(3) Conducting review.</b> Have a rule: Michigan Supreme Court Rules Concerning the State Bar of Michigan, Rule 15, Section 2. Foreign Attorneys, Temporary Permission.  <a href="http://courtofappeals.mijud.net/rules/public/default.asp">http://courtofappeals.mijud.net/rules/public/default.asp</a></p> <p><b>(4) Conducting review.</b> Have a rule: Michigan Compiled Law §600.946.</p> <p><b>(5) Conducting review.</b> Have a rule: Michigan Board of Bar Examiners, Rule 5E.</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>

<p><b>Minnesota</b></p>	<p>On June 20, 2003, the Minnesota State Bar Association General Assembly adopted the MSBA Model Rules Task Force recommendations on Rules 5.5 and 8.5.</p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multi-Jurisdictional Practice</b>                  Similar to ABA Model Rule 5.5 except: 1) add to 5.5(a) the words "except that a lawyer admitted to practice in Minnesota does not violate this Rule by conduct in another jurisdiction that is permitted in Minnesota under Rule 5.5(c) or (d) for lawyers not admitted to practice in Minnesota"; and 2) do not adopt 5.5(d)(1) (in-house-counsel provision).</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>                  Report recommends adoption of ABA Model Rule 8.5.  <a href="http://www2.mnbar.org/committees/task-force-aba-rules/convention03reports/ethics2003report.pdf">http://www2.mnbar.org/committees/task-force-aba-rules/convention03reports/ethics2003report.pdf</a></p> <p><b>(3) Conducting review.</b> Have a rule: Minnesota Statutes § 481.02, Subd. 6. Attorneys of other states.  <a href="http://www.revisor.leg.state.mn.us/stats/481/02.html">http://www.revisor.leg.state.mn.us/stats/481/02.html</a></p> <p><b>(4) Conducting review.</b> Have a rule: Minnesota Supreme Court Rules for Admission to the Bar, Rule 7  <a href="http://www.ble.state.mn.us/rules.htm#Rule7">http://www.ble.state.mn.us/rules.htm#Rule7</a></p> <p><b>(5) Conducting review.</b> Have a rule: 52 M.S.A., Admission to the Bar Rule 10.</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>
<p><b>Mississippi</b></p>	<p>State Bar Committee conducting review.</p> <p>Effective September 1, 2003, Rule 8.5 of the Mississippi Rules of Professional Conduct is amended. <a href="http://www.mscc.state.ms.us/news/sn104819.pdf">http://www.mscc.state.ms.us/news/sn104819.pdf</a></p>
<p><b>Missouri</b></p>	<p>Amended Missouri Rules 4-5.5 and 4-8.5 have been submitted to the Missouri Supreme Court by the Board of Governors of the Missouri Bar.</p> <p><b>(1) Rule 4-5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>                  Similar to ABA Model Rule 5.5. Paragraph (d)(1) is renumbered to paragraph (d) with the deletion of (d)(2). Missouri has rules for in-house counsel licensure.</p> <p><b>(2) Rule 4-8.5: Disciplinary Authority; Choice of Law</b>                  Identical to ABA Model Rule 8.5.</p> <p><b>(3) Not addressed.</b> Have a rule: Missouri Supreme Court Rules Governing the Missouri Bar and the Judiciary. Rule 9.03. Visiting Attorney Appearing in a Particular Case.  <a href="http://www.osca.state.mo.us/sup/index.nsf/d45a7635d4bfdb8f8625662000632638/1955018e9e8be48d86256e6800584b19?OpenDocument">http://www.osca.state.mo.us/sup/index.nsf/d45a7635d4bfdb8f8625662000632638/1955018e9e8be48d86256e6800584b19?OpenDocument</a></p> <p><b>(4) Not addressed.</b> Have a rule: Missouri Supreme Court Rules Governing the Missouri Bar, Rule 8.10  <a href="http://www.courtrules.org/">http://www.courtrules.org/</a></p> <p><b>(5) Not addressed.</b> Have a rule: MO R BAR Rule 9.05-9.12, Foreign Legal Consultants (Adopted March 3, 1994, effective July 1, 1994).</p> <p><b>(6) Not addressed.</b> Do not have a rule.</p>
<p><b>Montana</b></p>	<p>The State Bar of Montana sent the changes in the Model Rules to the Court on April 25, 2003.</p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>                  Report recommends adoption of rule identical to ABA Model Rule 5.5.</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>                  Report recommends adoption of rule identical to ABA Model Rule 8.5.</p> <p><b>(3) (4)</b> On July 7, 2004, the Supreme Court of Montana denied a petition filed by the State Bar to revise to the rules for admission to: (1) allow admission of ten-year practitioners by motion under certain conditions;                  (2) allow admission of five-year practitioners from several neighboring states under the constraints of a reciprocity agreement; and (3) revise the <i>pro hac vice</i> rule to increase the allowable number of appearances by out-of-state counsel.  <a href="http://www.lawlibrary.state.mt.us/dscgi/ds.py/Get/File-32797/03-861.doc">http://www.lawlibrary.state.mt.us/dscgi/ds.py/Get/File-32797/03-861.doc</a></p> <p><b>(5) Conducting review.</b> Do not have a rule.</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>

<p><b>Nebraska</b></p>	<p>On February 17, 2004, the Nebraska State Bar Association filed a “Petition to Adopt Rules of Professional Conduct Governing Attorneys,” in which the NSBA requests that the Nebraska Supreme Court adopt the proposed Nebraska Rules of Professional Conduct and repeal Nebraska’s Code of Professional Responsibility. The Nebraska Supreme Court invites interested persons to comment on the proposed Nebraska Rules of Professional Conduct. Anyone desiring to comment on these proposed rules should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, NE 68509-8910, or via e-mail to <a href="mailto:lasmussen@nsc.state.ne.us">lasmussen@nsc.state.ne.us</a>, no later than July 16, 2004. The full text of the proposed Nebraska Rules of Professional Conduct is available at the Nebraska Supreme Court’s Web site address, <a href="http://court.nol.org/rules/">http://court.nol.org/rules/</a>, or a hard copy of the proposed rules may be obtained from the NSBA by sending a request by mail to Nebraska State Bar Association, Jane Schoenike, P.O. Box 81809, Lincoln, NE 68501-1809, or via e-mail to <a href="mailto:jschoenike@nebar.com">jschoenike@nebar.com</a>.</p> <p><a href="#">Proposed Rules of Professional Conduct Governing Attorneys</a> (PDF)</p> <p>(1) <b>Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b> Identical to ABA Model Rule 5.5.</p> <p>(2) <b>Rule 8.5: Disciplinary Authority; Choice of Law</b> Identical to ABA Model Rule 8.5.</p> <p>(3) <b>Not addressed.</b> Have a rule: Nebraska Supreme Court Rules. Admission of Attorneys. Rule 6. Admission, <i>Pro Hac Vice</i>, of Lawyers of Good Moral Character Who Are Admitted to Practice in Another State, the District of Columbia, or a Territory. <a href="http://court.nol.org/rules/attyadm_02.htm">http://court.nol.org/rules/attyadm_02.htm</a></p> <p>(4) <b>Not addressed.</b> Have a rule: Rule 5, Nebraska Supreme Court Admission Rules for Attorneys <a href="http://court.nol.org/rules/attyadm_02.htm">http://court.nol.org/rules/attyadm_02.htm</a></p> <p>(7) <b>Not addressed.</b> Do not have a rule.</p> <p>(8) <b>Not addressed.</b> Do not have a rule.</p>
<p><b>Nevada</b></p>	<p>(1) and (2) <b>Nevada Supreme Court Rules, Rule 189. Unauthorized practice of law.</b> (Effective September 24, 2002) Similar to ABA Model Rules 5.5 but uses the following language: “The lawyer is acting with respect to a matter that is incident to work being performed in a jurisdiction in which the lawyer is admitted, provided that the lawyer is acting in this jurisdiction on an occasional basis and not as a regular or repetitive course of business in this jurisdiction”.</p> <p>A lawyer admitted to practice in another jurisdiction of the United States, who acts in Nevada, shall be subject to the Nevada Rules of Professional Conduct and the disciplinary jurisdiction of the Supreme Court of Nevada and the State Bar of Nevada.</p> <p><b>Rule 189.1</b> requires out-of-state lawyers to register with the Nevada State Bar, pay \$150 and file an annual report. The annual report requires, among other information, “the nature of the client(s) (individual or business entity) for whom the lawyer has provided services that are subject to this rule and the number and general nature of the transactions performed for each client during the previous twelve (12)-month period. The lawyer shall not disclose the identity of any clients or any information that is confidential or subject to attorney-client privilege”.</p> <p><b>New Rule 49.10</b> requires out-of-state lawyers who serve as in-house counsel or who are employed by a governmental agency to register and pay an annual \$150 fee.</p> <p>(3) The Nevada <i>Pro Hac Vice Rule</i>, SCR 42, has been amended. The Rule now covers all arbitration, mediation or alternative dispute resolution procedures that are court-annexed or court ordered. Additionally, it is presumed, absent a showing of good cause, that more than five appearances in a three-year period is excessive.</p> <p>(9) <b>Not addressed.</b> Do not have a rule.</p> <p>(10) <b>Not addressed.</b> Do not have a rule.</p> <p>(11) <b>Not addressed.</b> Do not have a rule.</p> <p><a href="http://www.nvbar.org/PDF/MJPReport.pdf">http://www.nvbar.org/PDF/MJPReport.pdf</a></p>

<p><b>New Hampshire</b></p>	<p>On October 27, 2004, the NH Supreme Court entered an order seeking comments on proposed changes to Rules 5.5 and 8.5. The Court asked for comment by December 17, 2004.  <a href="http://www.courts.state.nh.us/supreme/orders/ordr2004003.htm">http://www.courts.state.nh.us/supreme/orders/ordr2004003.htm</a></p> <p>Proposed Rule 5.5 is similar to ABA Model Rule 5.5 but includes the following paragraph: (e) A lawyer admitted in another United States jurisdiction who acts in this state pursuant to subparagraphs (c) or (d) shall not hold himself or herself out as being admitted to practice in this State and shall not solicit clients in New Hampshire and requires in-house counsel to register, pay fees and complete CLE.</p> <p>Proposed Rule 8.5 is similar to ABA Model Rule 8.5 but includes the following paragraph: (c) <i>Application of Rules to Nonlawyer Representatives</i>. Rules 1.2, 1.3, 1.4, 1.14, 1.15, 3.1, 3.2, 3.3, 3.4, 3.5, 4.1, 4.2, 4.3, 4.4, 8.2(a), and 8.4 of the Rules of Professional Conduct shall apply to persons who, while not lawyers, are permitted to represent other persons before the courts of this jurisdiction pursuant to RSA 311:1. The attorney discipline system shall have jurisdiction to consider grievances alleging violations of these Rules of Professional Conduct by nonlawyer representatives.</p> <p>Admission on Motion Rule adopted, effective March 1, 2003. (Amended Rule 42) <a href="http://www.nhbar.org/about_text.asp?SectID=2&amp;C=273">http://www.nhbar.org/about_text.asp?SectID=2&amp;C=273</a></p>
<p><b>New Jersey</b></p>	<p>(1) <b>RPC 5.5 Lawyers Not Admitted to the Bar of this State and the Lawful Practice of Law</b> (Effective January 1, 2004)                  Similar to ABA Model Rule 5.5 except does not contain the word “temporary” when describing permissible MJP legal services; adds requirement that the legal work in NJ be “with respect to a matter where the practice activity arises directly out of the lawyer’s representation on behalf of an existing client in a jurisdiction in which the lawyer is admitted to practice, provided that such practice in this jurisdiction is occasional and is undertaken only when the lawyer’s disengagement would result in substantial inefficiency, impracticality or detriment to the client”. Also adopted an in-house counsel rule, R.1:27 (Admission to Practice).</p> <p>(2) <b>RPC 8.5 Disciplinary Authority; Choice of Law</b> (Effective January 1, 2004)                  Similar to ABA Model Rule 8.5 except in (b)(2) does not include last sentence.</p> <p>(3) <b>Not addressed.</b> Have a rule: Rules Governing the Courts of State of New Jersey. Rule 1.21-2. Appearances <i>Pro Hac Vice</i>.  <a href="http://www.judiciary.state.nj.us/rules/rj-21.htm">http://www.judiciary.state.nj.us/rules/rj-21.htm</a></p> <p>(4) <b>Declined to adopt ABA Model Rule on Admission by Motion.</b> Do not have a rule.</p> <p>(5) <b>Not addressed.</b> Have a rule: NJ R Gen Application R. 1:21-9, Certification and Practice of Foreign Legal Consultants.</p> <p>(6) <b>Not addressed.</b> Do not have a rule.  <a href="http://www.judiciary.state.nj.us/notices/reports/admin-deter-rpcs.pdf">http://www.judiciary.state.nj.us/notices/reports/admin-deter-rpcs.pdf</a></p>
<p><b>New Mexico</b></p>	<p>Supreme Court Code of Professional Conduct Committee conducting review.</p> <p>State Bar of New Mexico, Multijurisdictional Practice Task Force Report and Recommendations (Adopted by the Board of Bar Commissioners on October 12, 2001):  <a href="http://www.nmbar.org/publications/multijurisreport.html">http://www.nmbar.org/publications/multijurisreport.html</a></p> <p>Also in discussions with Arizona, Colorado and Utah about reciprocity admission compact.</p>

<p><b>New York</b></p>	<p>At its June 21, 2003 meeting, the NYSBA House of Delegates approved the report and recommendations of the Special Committee on Multi-Jurisdictional Practice that would amend the New York Code of Professional Responsibility to address the permissible services that an out-of-state lawyer could provide in New York..  The Report and Recommendations can be found at:<a href="http://www.nysba.org/Content/NavigationMenu/Attorney_Resources/NYSBA_Reports/2003_Reports.htm">http://www.nysba.org/Content/NavigationMenu/Attorney_Resources/NYSBA_Reports/2003_Reports.htm</a></p> <p><b>(1) DR3-101</b>  Similar to ABA Model Rule 5.5 except does not contain the word “temporary” when describing permissible MJP legal services. Adds to 5.5 (c)(4) the words “in or reasonably related to a proceeding described in [(c)(2) or (c)(3)]”. Substituted in Comment [14] area of practice or body of law, including federal, nationally-uniform, foreign or international law” for “a particular body of federal, nationally-uniform, foreign, or international law” so as to authorize MJP in a wide range of specialized areas of transactional and other non-litigation (and non-ADR) practice that appears not to be covered by Comment [14] in the ABA Model Rule 5.5.</p> <p><b>(2) DR 1-105 Disciplinary Authority and Choice of Law</b>  Similar to ABA Model Rule 8.5.</p> <p><b>(3) Conducting review.</b> Have a rule: NYCRR § 520.11. Admission <i>Pro Hac Vice</i>.  <a href="http://www.courts.state.ny.us/ctapps/520rules.htm#11">http://www.courts.state.ny.us/ctapps/520rules.htm#11</a></p> <p><b>(4) Conducting review.</b> NYCRR § 520.10 (Admission Without Examination)  <a href="http://www.courts.state.ny.us/ctapps/520rules.htm#10">http://www.courts.state.ny.us/ctapps/520rules.htm#10</a></p> <p><b>(5) ABA Model Rule based upon NY Rule.</b> Rules of the Court of Appeals for the Licensing of Legal Consultants, Part 521.  NY R A CT § 521.1</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>
<p><b>North Carolina</b></p>	<p>Supreme Court has adopted new Rules 5.5 and 8.5.</p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law</b>  Similar to ABA Model Rule 5.5 (Effective March 1, 2003). Does not contain the word “temporary” when describing permissible MJP legal services; adds requirement that the legal work in NC be “with respect to a matter that arises out of or is otherwise reasonably related to the lawyer’s representation of a client in a jurisdiction in which the lawyer is admitted to practice” and adds an unrelated provision regarding the employment of disbarred or suspended lawyers as law clerks.  <a href="http://www.ncbar.com/home/line_rules.asp">http://www.ncbar.com/home/line_rules.asp</a>.</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>  Similar to ABA Model Rule 8.5 (Effective March 1, 2003). Uses “render” rather than “provide” and Comment [1] only includes first two sentences.  <a href="http://www.ncbar.com/home/line_rules.asp">http://www.ncbar.com/home/line_rules.asp</a>.</p> <p><b>(3) Conducting review.</b> Have a rule: NCGS. § 84-4.1. Limited practice of out-of-state attorneys.  <a href="http://www.ncga.state.nc.us/Statutes/GeneralStatutes/HTML/BySection/Chapter_84/GS_84-4.1.html">http://www.ncga.state.nc.us/Statutes/GeneralStatutes/HTML/BySection/Chapter_84/GS_84-4.1.html</a></p> <p><b>(4) Conducting review.</b> Have a rule: North Carolina Supreme Court Rules Governing Admission to the Practice of Law, Section .0502 <a href="http://www.ncble.org/">http://www.ncble.org/</a> (Reciprocity required and \$1500 appli fee).</p> <p><b>(5) Conducting review.</b> Have a rule: NC ST § 84A-1, et seq. (Effective January 1, 1996)</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>

<p><b>North Dakota</b></p>	<p>On November 17, 2004, the North Dakota Supreme Court entered an order adopting amendments to North Dakota Rules of Professional Conduct 5.5 and 8.5 and North Dakota Admission to Practice Rule 3. <a href="http://www.ndcourts.com/Court/Notices/Notices.htm">http://www.ndcourts.com/Court/Notices/Notices.htm</a></p> <p>(1) <b>Rule 5.5: Unauthorized Practice of Law</b>                  Similar to ABA Model Rule 5.5. but requires in-house counsel who establishes an office or other permanent presence to comply with registration rules. Also requires association with a ND lawyer for transactions that are pending in or substantially related to ND for which <i>pro hac vice</i> admission is not available.</p> <p>(2) <b>Rule 8.5: Jurisdiction</b>                  Similar to ABA Model Rule 8.5 (a) but deletes ABA Model Rule 8.5 (b).</p> <p>(3) <b>Admission to Practice Rule 3. Pro Hac Vice Admission and Registration of Nonresident Attorneys.</b>                  Similar to ABA Model Rule on Pro Hac Vice Admission. Also provides for the registration of in-house counsel.</p> <p>(4) <b>Not addressed.</b> Have a rule: North Dakota Admission to Practice Rule 6.  <a href="http://www.court.state.nd.us/Rules/Admission/frameset.htm">http://www.court.state.nd.us/Rules/Admission/frameset.htm</a></p> <p>(5) <b>Not addressed.</b> Being studied separately</p> <p>(6) <b>Not addressed.</b> Being studied separately.</p>
<p><b>Ohio</b></p>	<p>Supreme Court Task Force conducting review.</p>
<p><b>Oklahoma</b></p>	<p>Rules of Professional Conduct Committee conducting review.</p>
<p><b>Oregon</b></p>	<p>On October 27, 2004, the Oregon Supreme Court adopted new Rule of Professional Conduct, effective January 15, 2005.  <a href="http://www.osbar.org/_docs/discipline/disciplinechanges/ORPC.pdf">http://www.osbar.org/_docs/discipline/disciplinechanges/ORPC.pdf</a></p> <p>(1) <b>Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>                  Identical to ABA Model Rule 5.5.</p> <p>(2) <b>Rule 8.5: Disciplinary Authority; Choice of Law</b>                  Identical to ABA Model Rule 8.5.</p> <p>(3) <b>Conducting review.</b> Have a rule: Oregon Revised Statutes, 9.241. Appearance by attorneys licensed in other jurisdictions.  <a href="http://www.osbar.org/2practice/rulesregs/orsSched9.htm">http://www.osbar.org/2practice/rulesregs/orsSched9.htm</a></p> <p>(4) <b>Conducting review.</b> Do not have a rule but Idaho, Utah and Washington lawyers can apply for Admission by Motion.                  Oregon Supreme Court Admission Rules, Rule 15.05, Admission of Lawyers Licensed to Practice Law in Idaho and Washington  <a href="http://www.osbar.org/2practice/rulesregs/adm_rules.html#15">http://www.osbar.org/2practice/rulesregs/adm_rules.html#15</a></p> <p>[By order dated January 25, 2005, the Oregon Supreme Court approved amendments to Oregon Admission Rule 15.05 to allow qualified lawyers from Utah to be admitted to practice law in Oregon without having to take and pass the Oregon bar examination. The changes go into effect 2-1-05. As of 2-1-05, Oregon will have admission reciprocity under the requirements of its rule with Washington, Idaho, and Utah.]</p> <p>(5) <b>Conducting review.</b> Have a rule: ORS 9.242 and Oregon Admission Rule 12.05</p> <p>(6) <b>Conducting review.</b> Do not have a rule.</p>

<p><b>Pennsylvania</b></p>	<p>On April 30, 2004, the Supreme Court of Pennsylvania amended Rules 5.5 and 8.5 of the Pennsylvania Rules of Professional Conduct.  <a href="http://www.aopc.org/OpPosting/Supreme/out/28drd-1.pdf">http://www.aopc.org/OpPosting/Supreme/out/28drd-1.pdf</a>  <a href="http://www.aopc.org/OpPosting/Supreme/out/28drd-1attach.pdf">http://www.aopc.org/OpPosting/Supreme/out/28drd-1attach.pdf</a></p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>            Similar to ABA Model Rule 5.5. Allows lawyers admitted in a foreign jurisdiction to practice on a temporary basis in PA.</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>            Identical to ABA Model Rule 8.5</p> <p><b>(3) Conducting review.</b> Have a rule: Pennsylvania Rules of Court, Rule 301 of the Pennsylvania Bar Admission Rules.  <a href="http://www.pabarexam.org/Admission_Rules/rules_and_regulations/301.htm">http://www.pabarexam.org/Admission_Rules/rules_and_regulations/301.htm</a></p> <p><b>(4) Conducting review.</b> Have a rule: Pa.B.A.R., Rule 204, 42 Pa.C.S.A., Pennsylvania Bar Admission Rule 204.  <a href="http://www.pabarexam.org/Admission_Rules/rules_and_regulations/204.htm">http://www.pabarexam.org/Admission_Rules/rules_and_regulations/204.htm</a></p> <p><b>(5) Conducting review.</b> Do not have a rule. Have proposed a Rule; comments due by May 7, 2004.</p> <p><b>(6) Conducting review.</b> Rule 5.5 of the Pennsylvania Rules of Professional Conduct, amended on April 30, 2004, allow lawyers admitted in foreign jurisdiction to practice on a temporary basis in PA.</p>
<p><b>Rhode Island</b></p>	<p>Supreme Court Committee conducting review.</p>
<p><b>South Carolina</b></p>	<p>The Supreme Court of South Carolina is considering numerous amendments to the current Rules of Professional Conduct contained in Rule 407 of the South Carolina Appellate Court Rules. A <a href="#">copy of the proposed amendments</a>, along with commentary regarding the changes, is attached. Any written comments must be actually received by the Supreme Court by Tuesday, December 21, 2004. The Court will hold a public hearing regarding the proposed amendments on Wednesday, January 19, 2005, at 9:30 a.m. in the Supreme Court Courtroom in Columbia, South Carolina. Those desiring to be heard shall notify the Clerk of the Supreme Court no later than Friday, January 14, 2005.</p> <p>Columbia, South Carolina            October 21, 2004</p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>            Report recommends adoption of rule similar to ABA Model Rule 5.5. In Rule 5.5 (c) (4), the words “representation of an existing client” are substituted for “lawyer’s practice.”</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>            Report recommends adoption of rule similar to ABA Model Rule 8.5 but adds new paragraph (c) and corresponding Comment [8] to address lawyers doing business in fields other than law.</p> <p><b>(3) Conducting review.</b> Have a rule: South Carolina Appellate Court Rules, Rule 404, Admission <i>Pro Hac Vice</i>.  <a href="http://www.judicial.state.sc.us/courtReg/displayRule.cfm?ruleID=404&amp;subRuleID=&amp;ruleType=APP">http://www.judicial.state.sc.us/courtReg/displayRule.cfm?ruleID=404&amp;subRuleID=&amp;ruleType=APP</a></p> <p><b>(4) Conducting review.</b> Do not have a rule.</p> <p><b>(5) Conducting review.</b> Do not have a rule. In December 2004, the SC Bar House of Delegates will hear a presentation from the Chair of the South Carolina Bar’s International Law Practice Committee and then vote yes or no to ask the state Supreme Court to seek the FLC Rule adoption during the 2005 legislative session</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>

<p><b>South Dakota</b></p>	<p>On September 29, 2003, the South Dakota Supreme Court approved new versions of Rules 5.5 and 8.5, effective January 1, 2004, and an admission on motion rule (with reciprocity). <a href="http://www.sdbar.org/members/Default.htm">http://www.sdbar.org/members/Default.htm</a> (Scroll down for the link.)</p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>                  Similar to ABA Model Rule 5.5. Adds as (c)(5): in all cases, the lawyer obtains a South Dakota sales tax license and tenders the applicable taxes pursuant to Chapter 10-45 and adds at the end of (d)(2): “, provided that the lawyer obtains a South Dakota sales tax license and tenders the applicable taxes pursuant to Chapter 10-45”.</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>                  Report recommends adoption of rule identical to ABA Model Rule 8.5.</p> <p><b>(3) Conducting review.</b> Have a rule: South Dakota Code, Section 16-18-2. Appearance by nonresident attorneys permitted. <a href="http://legis.state.sd.us/statutes/Index.cfm?FuseAction=DisplayStatute&amp;FindType=Statute&amp;txtStatute=16-18-2">http://legis.state.sd.us/statutes/Index.cfm?FuseAction=DisplayStatute&amp;FindType=Statute&amp;txtStatute=16-18-2</a></p> <p><b>(4)</b> On September 29, 2003 the Court adopted an Admission by Motion Rule, effective January 1, 2004. SDCL 16-16-12.1 and 2</p> <p><b>(5) Conducting review.</b> Do not have a rule.</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>
<p><b>Tennessee</b></p>	<p>Supreme Court has adopted new Rules of Professional Conduct effective March 1, 2003. They can be found at <a href="http://www.tba.org/ethics2002.html">http://www.tba.org/ethics2002.html</a></p> <p>New committee to study ABA MJP recommendations.</p> <p>Amended <i>pro hac vice</i> admission rule, effective October 1, 2004  <a href="http://www.tba.org/rules/rule19_amend_07_2004.html">http://www.tba.org/rules/rule19_amend_07_2004.html</a></p>
<p><b>Texas</b></p>	<p>State Bar Disciplinary Rules of Professional Conduct Committee conducting review.</p> <p>Effective September 1, 2003, §82.0361 of subchapter B of chapter 82 of the Texas Government Code, was amended to establish a <i>pro hac vice</i> fee of \$250 for out-of-state lawyers who petition a Texas court to appear in a specific Texas case. These fees are to be deposited into the Basic Civil Legal Services Fund for low-income Texans.</p>
<p><b>Utah</b></p>	<p>Supreme Court Advisory Committee on Rules of Professional Conduct conducting review.</p> <p>[By order dated January 25, 2005, the Oregon Supreme Court approved amendments to Oregon Admission Rule 15.05 to allow qualified lawyers from Utah to be admitted to practice law in Oregon without having to take and pass the Oregon bar examination. The changes go into effect 2-1-05. As of 2-1-05, Oregon will have admission reciprocity under the requirements of its rule with Washington, Idaho, and Utah.]</p>
<p><b>Vermont</b></p>	<p>Subcommittee of the Vermont Supreme Court's Advisory Committee on Rules of Civil Procedure is conducting review.</p> <p>Effective March 1, 2003, New Hampshire lawyers may be admitted on motion.  <a href="http://www.vermontjudiciary.org/">http://www.vermontjudiciary.org/</a></p>

<p><b>Virginia</b></p>	<p>Virginia has a task force is studying all the issues.</p> <p>On February 19, 2005, the Virginia State Bar Council will meet to consider a proposed rule that will allow a non-U.S. attorney to practice in Virginia as a Foreign Legal Consultant (FLC). The proposed rule is work product of the Virginia State Bar's Task Force on Multi-jurisdictional Practice. <a href="http://www.vsb.org/profguides/proposed/rule_1A7.html">http://www.vsb.org/profguides/proposed/rule_1A7.html</a></p> <p>Proposed in-house counsel rule adopted, Va. Sup. Ct. Rule 1A:5  <a href="http://www.vsb.org/publications/vlawyer/Jan02/corpcounrulechg.pdf">http://www.vsb.org/publications/vlawyer/Jan02/corpcounrulechg.pdf</a>                      Fee: \$50</p>
<p><b>Washington</b></p>	<p>The Washington State Supreme Court has published for comment the extensive amendments to the Washington Rules of Professional Conduct as recommended by the WSBA Ethics 2003 Committee and approved by the Board of Governors. Comments must be received by the Supreme Court no later than April 29, 2005.  <a href="http://www.courts.wa.gov/court_rules/?fa=court_rules_rules_display&amp;folderid=2004Dec&amp;fileid=RPC">http://www.courts.wa.gov/court_rules/?fa=court_rules_rules_display&amp;folderid=2004Dec&amp;fileid=RPC</a></p> <p><b>(1) Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law</b>                      Identical to ABA Model Rule 5.5.</p> <p><b>(2) Rule 8.5: Disciplinary Authority; Choice of Law</b>                      Identical to ABA Model Rule 8.5.</p> <p><b>(3) Conducting review.</b> Have a rule already: Washington State Supreme Court Rules, Admission to Practice Rules, Rule 8(b).  <a href="http://www.courts.wa.gov/court_rules/?fa=court_rules_display&amp;group=ga&amp;set=APR&amp;ruleid=gaapr08">http://www.courts.wa.gov/court_rules/?fa=court_rules_display&amp;group=ga&amp;set=APR&amp;ruleid=gaapr08</a></p> <p><b>(4) No Rule</b> but Idaho and Oregon lawyers can apply for Admission by Motion. Admission to Practice Rule 18  <a href="http://www.courts.wa.gov/rules/display.cfm?group=ga&amp;set=APR&amp;ruleid=gaapr18">http://www.courts.wa.gov/rules/display.cfm?group=ga&amp;set=APR&amp;ruleid=gaapr18</a></p> <p><b>(5) Conducting review.</b> Have a rule: Washington Admission to Practice Rule 14.</p> <p><b>(6) Conducting review.</b> Do not have a rule.</p>
<p><b>West Virginia</b></p>	<p>State Bar Committee conducting review.</p>
<p><b>Wisconsin</b></p>	<p>The State Bar Board of Governors is scheduled to vote at its May 7-8, 2004 meeting on the MJP Task Force proposed rule on multijurisdictional practice rules.  <a href="http://www.wisbar.org/bar/dwnlds/MJP04.pdf">www.wisbar.org/bar/dwnlds/MJP04.pdf</a></p> <p><b>(1) SCR 20:5.5: UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW</b>                      Report recommends adoption of a rule similar to ABA Model Rule 5.5. In-house counsel excluded but report recommends adoption of a rule providing for the limited admission of in-house counsel. Proposed rule makes it clear that a WI lawyer would not be disciplined in WI for engaging in MJP.</p> <p><b>(2) SCR 20:8.5: Disciplinary authority; choice of law</b>                      Report recommends adoption of a rule similar to ABA Model Rule 8.5.</p> <p><b>(3) SCR 10.03(4) Only Active Members May Practice Law</b>                      Report recommends amendments to the current <i>pro hac vice</i> rule. Revised rule similar to ABA Model Rule. Fee required; part of fee to client security fund and disciplinary authority. Administrative proceedings would be covered. No determination yet on whether to limit appearances.</p> <p><b>(4) SCR 40.05 Legal competence requirement; proof of practice elsewhere.</b>                      Report recommends adding a reciprocity requirement to the current admission by motion rule.</p> <p><b>(5) Not addressed.</b> Do not have a rule.</p> <p><b>(6) Not addressed.</b> Do not have a rule.</p>
<p><b>Wyoming</b></p>	<p>State Bar Select Committee for Review of Disciplinary Functions conducting review.</p>

As of January 31, 2005

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**STATE IMPLEMENTATION OF ABA MODEL RULE 8.5  
(DISCIPLINARY AUTHORITY; CHOICE OF LAW)**

	<b>Highest Court has adopted a rule identical to ABA Model Rule 8.5</b>	<b>Highest Court has adopted a rule similar to ABA Model Rule 8.5</b>	<b>Recommendation pending in highest Court to adopt a rule identical to ABA Model Rule 8.5</b>	<b>Recommendation pending in highest Court to adopt a rule similar to ABA Model Rule 8.5</b>	<b>States whose MJP study committees have recommended adoption of a rule identical to ABA Model Rule 8.5</b>	<b>States whose MJP study committees have recommended adoption of a rule similar to ABA Model Rule 8.5</b>	<b>States that have created committees to study ABA MJP recommendations</b>
	(6)	(8)	(9)	(4)	(2)	(1)	(20)
AL							X
AK							X
AZ	X						
AR			X				
CA		X					
CO		X					
CT							
DE	X						
DC							X
FL				X			X
GA		X					
HI							X
ID	X						
IL			X				

	Highest Court has adopted a rule identical to ABA Model Rule 8.5  (6)	Highest Court has adopted a rule similar to ABA Model Rule 8.5  (8)	Recommendation pending in highest Court to adopt a rule identical to ABA Model Rule 8.5  (9)	Recommendation pending in highest Court to adopt a rule similar to ABA Model Rule 8.5  (4)	States whose MJJ study committees have recommended adoption of a rule identical to ABA Model Rule 8.5  (2)	States whose MJJ study committees have recommended adoption of a rule similar to ABA Model Rule 8.5  (1)	States that have created committees to study ABA MJJ recommendations  (20)
IN		X					
IA			X				
KS							X
KY							X
LA			X				
ME							X
MD					X		
MA							X
MI			X				
MN			X				
MS							X
MO			X				
MT			X				
NE			X				

	Highest Court has adopted a rule identical to ABA Model Rule 8.5  (6)	Highest Court has adopted a rule similar to ABA Model Rule 8.5  (8)	Recommendation pending in highest Court to adopt a rule identical to ABA Model Rule 8.5  (9)	Recommendation pending in highest Court to adopt a rule similar to ABA Model Rule 8.5  (4)	States whose MJJ study committees have recommended adoption of a rule identical to ABA Model Rule 8.5  (2)	States whose MJJ study committees have recommended adoption of a rule similar to ABA Model Rule 8.5  (1)	States that have created committees to study ABA MJJ recommendations  (20)
NV		X					
NH				X		X	
NJ		X					
NM							X
NY				X			
NC		X					
ND		X					
OH							X
OK							X
OR	X						
PA	X						
RI							X
SC				X			
SD	X						

	Highest Court has adopted a rule identical to ABA Model Rule 8.5  (6)	Highest Court has adopted a rule similar to ABA Model Rule 8.5  (8)	Recommendation pending in highest Court to adopt a rule identical to ABA Model Rule 8.5  (9)	Recommendation pending in highest Court to adopt a rule similar to ABA Model Rule 8.5  (4)	States whose MJP study committees have recommended adoption of a rule identical to ABA Model Rule 8.5  (2)	States whose MJP study committees have recommended adoption of a rule similar to ABA Model Rule 8.5  (1)	States that have created committees to study ABA MJP recommendations  (20)
TN							X
TX							X
UT							X
VT							X
VA							X
WA					X		
WV							X
WI						X	
WY							X

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