

The Errors of Multijurisdictional Practice

Once licensed, it's best to stay in your lane

The unauthorized practice of law is a foreign concept to many attorneys. For example, many attorneys are licensed only in Pennsylvania and have their offices in the Commonwealth. As a result, they believe that they need not be concerned with Rule of Professional Conduct 5.5(a) (“Unauthorized Practice of Law; Multijurisdictional Practice of Law”), which prohibits a Pennsylvania-licensed attorney from practicing “law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.”

However, consider a lawyer licensed only in Pennsylvania, who regularly drafts estate planning documents for clients in New Jersey, or the personal injury attorney whose client was injured in an accident in the State of Delaware and who tries to settle the case without filing a lawsuit. There are numerous other similar examples, including lawyers who provide advice on Internet websites to persons from states other than Pennsylvania. Often, lawyers ignore the question of whether these types of conduct constitute the unauthorized practice of law in those other jurisdictions, assuming that it’s “OK” to do so.

In general, it is not. While R.P.C. 5.5 does permit “multijurisdictional practice,” that is, the provision of “legal services on a temporary basis in [the other] jurisdiction,” the Rule does not permit the systematic practice of law in places where a Pennsylvania attorney is not licensed.

It is relatively rare for lawyers to be publicly disciplined in Pennsylvania for UPL, but on those occasions when the Supreme Court imposes such discipline, the analysis is highly instructive. Consider the matter of Office of Disciplinary Counsel v. Sheila K. Younger-Halliman, No. 239 DB 2018, who was suspended for one year by the court on Feb. 21, 2019.



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Younger-Halliman was licensed to practice law only in Pennsylvania but lived in Texas, where she worked as an “independent contractor” for Mediation Worlds, which “specializes in evaluative, facilitative and transformative mediation and offers experienced, professional mediators; [their] end goal is to help [“its clients”] rebuild trust and preserve amicable personal and business relationships.” In her work for Mediation Worlds, Younger-Halliman provided legal representation to multiple clients in Texas; she stipulated in her Joint Petition in Support of Discipline on Consent that she had “engaged in the unauthorized practice of law in Texas when she performed legal services, provided legal advice and negotiated settlements on behalf of clients.”

The joint petition further stipulated that Younger-Halliman had permitted the entry of a Default Judgment and Permanent Injunction in Dallas County, Texas as a result of the unauthorized practice of law by her and by Dr. Ralph Steele, the owner of Mediation Worlds,

who was also not licensed to practice law in Texas. Consequently, the record overwhelmingly established that Younger-Halliman had continuously practiced law in Texas despite not being licensed to do so.

While Younger-Halliman’s conduct is far more egregious than the examples I cited earlier in this column, the joint stipulation’s discussion of other attorneys who engaged in UPL is instructive, particularly the fact that attorneys who engage in this conduct are generally suspended from the practice of law.

For example, Evan T.L. Hughes “received a public reprimand for UPL in two criminal matters in New Jersey,” including one case in which he failed to file an appeal brief on appeal and failed to respond to the client’s requests for status updates or to return the client’s property. In another case, Hae Yeon Baik received a public reprimand on consent for UPL in a New Jersey real estate matter and other ethical violations. John V. Buffington received a six-month suspension for continuing to serve as an arbitrator for

the Philadelphia Court of Common Pleas and handled three legal matters following his transfer to administrative suspension, despite no prior record of discipline. In another case, Ruth Ann Price was suspended for six months for UPL for representing clients in three matters over a period of approximately six months while on inactive status.

The joint petition analogized Younger-Halliman's conduct to that of Julie Ann Marzano, who received a nine-month suspension for practicing law in three matters while on inactive status, noting that "Like attorney Marzano, Respondent Younger-Halliman engaged in limited acts of the unauthorized practice of law and created the false impression that she was licensed in her home state (Texas). However, while attorney Marzano engaged in the unauthorized practice of law in three matters, two of which involved family members, Respondent Younger-Halliman engaged in UPL in five matters (two of them were for one client). Moreover, while attorney Marzano wrote a letter on letterhead that erroneously indicated that she was an active attorney, Respondent Younger-Halliman made statements on her website and her email that would have led a reasonable client to believe she was licensed to practice law in Texas." For these reasons,

Younger-Halliman's conduct warranted a suspension greater than the nine-month suspension imposed on Marzano.

The Pennsylvania Bar Association Unauthorized Practice of Law Committee publishes periodic opinions concerning UPL. For example, in Formal Opinion 2010-01 ("Legal Document Preparation By Online and In-Person Services"), the committee opined "that the offering or providing [in Pennsylvania] of legal document preparation services ... (beyond the supply of preprinted forms selected by the consumer not the legal document preparation service), either online or at a site in Pennsylvania is the unauthorized practice of law and thus prohibited, unless such services are provided by a person who is duly licensed to practice law in Pennsylvania retained directly for the subject of the legal services."

In Formal Opinion 2006-01 ("Unauthorized Practice of Immigration Law by Non-Attorneys and Unauthorized Practice of Law Generally by Notaries Public"), the Committee considered the issue of UPL vis-à-vis immigration law, concluding that: (1) persons who are not attorneys licensed to practice law may not provide legal advice or regular representation in relationship to immigration proceedings; and (2) notaries public, visa consultants or any other

person who is not a licensed attorney or authorized representative pursuant to federal regulations may not engage in the representation of persons as defined in federal immigration regulations.

Finally, it will be interesting to see if Younger-Halliman is subject to additional discipline. The Mediation Worlds website continues to state that she "is a licensed attorney with experience in a (sic) several civil and corporate practice areas, including but not limited, to family, environmental, insurance coverage and defense, labor, employment and real estate law."

Lawyers must take care not to inadvertently engage in UPL. Disciplinary authorities in Pennsylvania and other states monitor for this type of conduct, and the discipline can be significant. ■

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