Parameters of “Practice” for Law Students and Not Yet Licensed Law School Graduates

Ethics Opinions

RHODE ISLAND

Opinion 2016-05 (5/19/16) Business activities; Nonlawyers; Division of fees with nonlawyers; Audits; Independent professional judgment.

A lawyer is considering collaborating with a law school graduate who is not licensed to practice law to provide compliance services to governmental entities. The lawyer may not form a partnership with the nonlawyer and may not form a corporation in which the lawyer practices law and the nonlawyer participates in ownership or management. If the lawyer arranges for the nonlawyer to provide nonlegal services to a client, the lawyer may not pay the nonlawyer a fee that is tied to the lawyer's fee and must ensure that the nonlawyer's conduct is consistent with the Rules of Professional Conduct and that the clients are notified he is not a lawyer. R.I. Sup. Ct. Rules Art. II, R. 10; Provisional Order No. 18; Rules 5.3, 5.4.

STATE BAR OF TEXAS

Opinion 550 (5/04) Advertising and solicitation; Letterhead; Academic degrees.

A lawyer who is a graduate of an accredited law school with a Juris Doctor or Doctor of Jurisprudence degree may use the titles “Dr.,” “Doctor,” “Doctor of Jurisprudence,” or “J.D.” in social and professional communications provided such use is not false or misleading in the particular circumstances. Opinions 198, 291, 306, 331, 344; Rule 7.01.

SOUTH CAROLINA BAR

Opinion 90-25 (10/90) Non-lawyers; Law school graduates.

A law school graduate who works for a firm but has not yet received his bar examination results may handle law firm correspondence provided that his name does not appear on the letterhead, the letters do not violate the advertising rules, the graduate's work is reviewed by a supervisory attorney who takes responsibility for the work-product, and the graduate makes no false or misleading statements to clients or others regarding his status at the firm. To clarify his position, the graduate should use a title that signifies his non-lawyer status or should add a notation such as "on behalf of" or "for" the supervising attorney. Rules 1.1, 5.3(b), 5.5(b), 7.5(a)(b).

MISSOURI

Opinion 990105 (5/99–6/99) Law students; Law clerks; Nonlawyers; Employees of lawyers; Unauthorized practice of law.

A law student employed in a lawyer's office who is certified under Supreme Court Rule 13 may take depositions and appear in court to the extent permitted by the rule, which permits the student to represent the state and indigent persons. If the student is not certified, he or she may not engage in any activities that other nonlawyers may perform. Sup. Ct. Rule 13.
BAR ASSOCIATION OF NASSAU COUNTY

Opinion 88-53 (12/21/88) Unauthorized practice of law; Law clerks; Admission to the bar.

A lawyer may not delegate the task of conducting depositions to a law student or a law school graduate awaiting the results of the bar examination who works in his office. DR 3-101; ECs 3-1, 3-2, 3-3, 3-4, 3-5; ABA 85.

BAR ASSOCIATION OF NASSAU COUNTY

Opinion 86-40 (9/12/89) Unauthorized practice of law; Paralegals; Law clerks.

A lawyer who employs a third-year law student may not direct or allow the student to appear at a pretrial conference and engage in settlement negotiations regardless of the fact that the court is fully advised of the situation. DR 3-101; EC 3-5.

 PENNSYLVANIA BAR ASSOCIATION


A graduate law student who has taken the bar examination but has not yet been admitted to the bar may not engage in any activities that would constitute the practice of law. The individual may perform activities that would be permitted if done by a paralegal. As long as the individual's work is supervised by a member of the bar, and the individual is not held out to the public as being a lawyer or capable of rendering legal advice, he may perform the following activities: (1) preparation of pleadings, written discovery requests and responses, and other documents; (2) preparation of any document normally prepared in a legal practice; (3) legal research, including preparation of written memorandum of conclusions; (4) information-gathering interviews with clients or witnesses in connection with any legal matter; (5) routine filing of completely executed legal documents; and (6) general clerical duties. The individual may not represent a client in any legal proceeding before a court or other adjudicatory unit which requires those appearing in a representative capacity to be a lawyer.

STATE BAR OF WISCONSIN

Opinion EI-11-01 (4/6/11) Educational activities; Lawyer-client relationship; Supervisory lawyers; Law students; Conflicts of interest.

A lawyer proposes to offer a public seminar on basic power-of-attorney forms. The seminar will be offered under the auspices of a law school student organization, and law students will offer to help attendees complete the forms. If the lawyer limits his presentation to legal information the presentation itself does not create a lawyer-client relationship with attendees. To avoid an unintentional relationship the lawyer may add a disclaimer explaining that he is presenting information and is not representing attendees or supervising the law students. However, if completing the forms is considered the practice of law the program must comply with SCR Chapter 50, under which the lawyer is professionally responsible for the law students' work and will have a lawyer-client relationship with the attendees for purposes of later conflicts. Alternatively, if the program meets the requirements of Rule 6.5 on nonprofit legal service programs, the lawyer will have a lawyer-client relationship with attendees but the relationship would not create subsequent disqualifying conflicts for him absent actual knowledge on his part. Opinions E-95-5, EI-10-01; SCR 23.01(2), 23.02(2)(i), 50.05; Rules 1.7, 1.9(a), 1.10, 5.3, 6.5.
IOWA

Opinion 94-26 (2/22/95) Law clerks; Law school graduates.

A lawyer may hire a law school graduate who has not yet passed the bar examination to work as a law clerk, subject to the limitations on employment of nonlawyers generally. DRs 3-101, 3-102, 3-103, 3-104; EC 3-6.

KENTUCKY BAR ASSOCIATION

Opinion 341 (11/90) Employees of lawyer; Unauthorized practice of law.

A lawyer may not delegate the task of taking depositions to a non-lawyer assistant or a law school graduate who is not yet admitted to the bar. Opinion E-251.

NEW YORK STATE BAR ASSOCIATION

Opinion 943 (11/2/12) Advertising and solicitation; Academic degrees; Business cards; Employees of lawyers.

A law firm that employs an unadmitted law school graduate as a project manager and client liaison may not list the employee’s law degrees or use the title “Legal Project Manager” on business cards unless it also expressly indicates that he is not admitted to practice law. Opinions 640, 704; Rules 5.3, 7.1(a), 8.4(c).

NEW YORK COUNTY LAWYERS’ ASSOCIATION

Opinion 682 (11/11/90) Out-of-state lawyers; Law school graduates; Letterhead; Business cards; Unauthorized practice of law

A law school graduate who has not yet been admitted to the bar or a lawyer who is only admitted in a foreign jurisdiction may be listed on law firm letterhead and may use business cards that include his name and the name and telephone number of the law firm provided that his non-lawyer status or jurisdictional limitation is noted. In addition, the law graduate or a lawyer admitted only in another state may sign documents and letters on law firm stationery provided his status is disclosed in a notation such as “Not Admitted in New York” or “Admitted only in New Jersey.” A law school graduate or lawyer admitted only in another state may not engage in the practice of law but may perform functions other non-lawyer employees perform. Thus, impermissible activities include counselling clients about legal matters, appearing in court, arguing motions, taking depositions, and supervising will executions. Permissible activities include interviewing witnesses, drafting documents under the supervision of a member of the bar, researching legal questions, answering calendar calls when no argument is necessary, and attending title or mortgage closings that involve mere formalities. NY County Opinions 666, 673; NY State Opinions 434, 355; DRs 2-101(A)(D); 3-101(A)(B); ECs 3-5, 3-6, 3-8, 3-9.
OHIO

Opinion 2002-4 (6/14/02) **Multijurisdictional practice; Out-of-state lawyers; Unauthorized practice of law.**

A lawyer not licensed in Ohio may take a deposition in Ohio if it is incidental to litigation occurring elsewhere, but if the litigation will take place in an Ohio court the lawyer must first obtain pro hac vice admission in Ohio. An Ohio lawyer may take a deposition in a state in which he is not licensed if that state's rules so permit. Taking a deposition involves practicing law, and therefore may not be delegated to a nonlawyer paralegal or law school graduate awaiting formal admission. Opinions 89-37, 90-12; Ohio Rev. Code Ann. §§2319.09, 4705.01; DR 3-101(A)(B); EC 3-9.

PENNSYLVANIA BAR ASSOCIATION

Opinion 86-97 (5/27/87) **Law students.**

A graduate law student who has taken the bar examination but has not yet been admitted to the bar may not engage in any activities that would constitute the practice of law. The individual may perform activities that would be permitted if done by a paralegal. As long as the individual's work is supervised by a member of the bar, and the individual is not held out to the public as being a lawyer or capable of rendering legal advice, he may perform the following activities: (1) preparation of pleadings, written discovery requests and responses, and other documents; (2) preparation of any document normally prepared in a legal practice; (3) legal research, including preparation of written memorandum of conclusions; (4) information-gathering interviews with clients or witnesses in connection with any legal matter; (5) routine filing of completely executed legal documents; and (6) general clerical duties. The individual may not represent a client in any legal proceeding before a court or other adjudicatory unit which requires those appearing in a representative capacity to be a lawyer.

PHILADELPHIA BAR ASSOCIATION

Opinion 86-144 (11/13/86) **Business cards; Admission to the bar.**

A law school graduate who has taken the bar examination but has not yet received the results may not hand out business cards that state the graduate's name and the law firm with which he will be associated. The cards may be misleading to the public since they imply that the graduate is already a lawyer.