

**COMMITTEE ON THE UNAUTHORIZED PRACTICE OF LAW
ADVISORY COMMITTEE ON PROFESSIONAL ETHICS**

Appointed by the Supreme Court of New Jersey



JOINT OPINION

**Committee on the Unauthorized Practice of Law Opinion 59
Advisory Committee on Professional Ethics Opinion 742**

**Non-New Jersey Licensed Lawyers Associated
With Out-of-State Law Firms or Serving as In-
House Counsel to Out-of-State Companies
Remotely Working from New Jersey Home**

Many non-New Jersey licensed lawyers have called the attorney ethics research assistance hotline with questions about whether they would be considered to be practicing New Jersey law if they work remotely from their New Jersey homes for law firms, or as in-house counsel for companies, that are located out-of-state. The Committee on the Unauthorized Practice of Law and Advisory Committee on Professional Ethics hereby issue this joint opinion to provide guidance on the issue.

Court Rule 1:21-1(a) states that “no person shall practice law in this State unless that person is an attorney holding a plenary license to practice in this State.” Accordingly, non-New Jersey licensed lawyers may not maintain a “continuous and systematic presence” in New Jersey

for the practice of law. In re Jackman, 165 N.J. 580, 588 (2000) (Massachusetts lawyers practiced law from a New Jersey law firm office). See also Advisory Committee on Professional Ethics Opinion 550 (January 24, 1985) (non-New Jersey licensed lawyers “who have not been admitted to the bar here in accordance with the rules of our Supreme Court are not authorized to conduct a practice in New Jersey, either on their own or through the subterfuge of New Jersey-licensed ‘associates’”).

While Court Rule 1:21-1(a) refers to practice of law “in” New Jersey, the focus of the analysis under this Rule is: (1) whether a lawyer is practicing New Jersey law; or (2) whether the lawyer maintains a “continuous and systematic presence” in New Jersey for the practice of law. The inquirers on the attorney ethics hotline state that they practice the law of the out-of-state jurisdiction where their law firms, or companies, are located, and they do not practice New Jersey law when working remotely from their New Jersey homes. The question remains whether they maintain a “continuous and systematic presence” in New Jersey for the practice of law.

Non-New Jersey licensed lawyers may practice out-of-state law from inside New Jersey provided they do not maintain a “continuous and systematic presence” in New Jersey by practicing law from a New Jersey office or otherwise holding themselves out as being available for the practice of law in New Jersey. A “continuous and systematic presence” in New Jersey requires an outward manifestation of physical presence, as a lawyer, in New Jersey. As the American Bar Association, Standing Committee on Ethics and Professional Responsibility, recently stated, lawyers do not “hold themselves out to the public” when they are “for all intents and purposes invisible as a lawyer to a local jurisdiction where the lawyer is physically located, but not licensed.” ABA Formal Opinion 495 (December 16, 2020). Hence, actions that merely manifest presence in New Jersey in the capacity of a private citizen or resident, and not as a lawyer, do not raise such concerns.

Such outward manifestations of physical presence include, most significantly, practicing from a law office located in New Jersey. See Jackman, supra, 165 N.J. at 588 (Massachusetts lawyer practicing from a New Jersey law firm office). Other outward manifestations include, but are not limited to, any advertisement or similar communication stating that the non-New Jersey licensed lawyer engages in a legal practice in New Jersey; any advertisement or similar communication referring to a location in New Jersey for the purpose of meeting with clients or potential clients; any advertisement or similar communication stating that mail or deliveries to the lawyer should be directed to a New Jersey location; and otherwise holding oneself out as available to practice law in New Jersey.

Accordingly, non-New Jersey licensed lawyers who are associated with an out-of-state law firm, or are in-house counsel for an out-of-state company, and who simply work remotely from their New Jersey homes but do not exhibit such outward physical manifestations of presence, are not considered to have a “continuous and systematic presence” for the practice of law in New Jersey. Such non-New Jersey licensed lawyers are not considered to be engaging in the unauthorized practice of New Jersey law.