

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	Amount includes	Remedies /Sanctions available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?	Does your jurisdiction permit any nonlawyer practice?	If nonlawyer practice is permitted, is it regulated/licensed? By?	Nonlawyers may engaged in the following:	May disbarred or suspended lawyers engage in a law related activity?	Source of jurisdictions position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in it's UPL regulations, enforcement activity or authority?
AL	N/A	Civil injunction; Civil contempt; Civil fine; Criminal fine	Active	No	N/A	ⁱ See Below	No	Rule	No
AK	N/A	Criminal fine; prison sentence	Non-existent	Yes	No	Attend administrative proceedings; Give legal advice; Negotiate legal matters.	Yes – But very limited, see bar rule 15(b) and (c).	Rule	Yes – Alaska will attempt another effort to have the supreme court adopt a UPL definition for injunctive purposes.
AZ	Salaries/benefits; equipment/supplies; travel/education /training	Civil injunction; civil contempt; restitution	Active- Our ability to enforce UPL rules is relatively new; we began to file cases in April 2004.	Yes –Legal Asst./Paralegals under supervision of an attorney; Document preparers.	Yes. State Bar; Supreme Court; Other regulatory Entity/Board.	ⁱⁱ See Below	Yes	Rule	No- Because the UPL regulatory procedure is relatively new, the Bar is continuing to monitor its effectiveness and will probably offer changes as required.

ⁱ Attend administrative proceedings; Attend real estate closings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings.

ⁱⁱ There are exceptions to Arizona Supreme Court Rule 31 that provides only that persons who are members of the State Bar of Arizona may practice law. These exceptions permit limited types of conduct and appearances by nonlawyers in certain administrative or ADR proceedings under special limited circumstances.

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AR ¹	Equipment/Supplies; Travel/Education/ Training	Civil Injunction; Civil Contempt; Cease and Desist order	Active	ⁱⁱⁱ See Below	No	Participate in state administrative proceedings.	No	Rule	The Committee is considering complete revision of its operating procedures.
CA	Yes – Salaries; space; equipment/ supplies; travel/education/ training.	Civil Injunction; Criminal Fine; Prison; Restitution	^{iv} See Below	Yes – Legal Assistants/ Paralegals under the supervision of an attorney; Document preparers;	No	^v See Below	Yes	Rule	No
CO	No	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	Active	Yes – Legal Assistants/ Paralegals under the supervision of an attorney	No	See Below ^{vi}	Yes	Rule; Advisory Opinion	Yes – We are considering a rule definition of practice of law revisions to enforce, other ideas

ⁱⁱⁱ Yes – Legal Assistants/Paralegals under the supervision of an attorney; Document preparers - only in bankruptcy through federal court sanctioned activity

^{iv} Not Active – we are limited to investigating UPL at the State Bar and turning the investigation over to law enforcement for prosecution. Because of resource limitations we investigate only a few cases each year.

^v Attend administrative proceedings; Attend real estate closings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings.

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CT ²	N/A	^{vii} See Below	Active	^{viii} See Below	No – except foreign legal consultants who are licensed by bar examining committee of judicial branch	^{ix} See Below	Yes	As it is not expressly forbidden they have same rights as any other member of the public.	Bar association is beginning to discuss whether some rules/statutes should be changed- but bar is split - 1/2 are against expansion, 1/2 want it wide open.

^{vi} Attend administrative proceedings; Attend real estate closings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings.

If authorized by the administrative Agency or ADR rules.

^{vii} Civil Injunction; Civil Contempt; Criminal Fine; Prison; Often includes other criminal charges – larceny fraud.

^{viii} Yes – Legal Technicians; Legal Assistants/ Paralegals under the supervision of an attorney; Document preparers; Bank trust officers, accountants, foreign legal aid.

^{ix} Attend administrative proceedings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings; bank trust officers can prepare tax returns, probate paperwork.

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DE	N/A	Other ^x	N/A	No – not for “practice of law” – law related activities permitted with preference for direct supervision by lawyer.	No	No	Yes- but frequently Supreme Court sanctions order prohibits contact with clients/witness as paralegal or law clerk and even if not explicit, such contact is discouraged.	Case Law	Yes – Ongoing review/consideration re: definition of UPL; remedies and procedures for enforcement.
DC ³	N/A	Civil Injunction; Restitution	^{xi} See Below	Yes – Document preparers; Exceptions for nonlawyers to the general rule that only lawyers can engage in the practice of law are set forth in Rule 49(c).	Yes – Federal and D.C. agencies to extent they permit nonlawyers to practice before them; Other Regulatory Entity/Board	^{xii} See Below	The D.C. disciplinary system, not the Committee on UPL enforces restrictions on activity by disbarred and suspended lawyers.	The D.C. disciplinary system enforces restrictions on activity by disbarred and suspended lawyers.	Yes – The D.C. Bar has established on multijurisdictional practice to consider changes to Rule 49 in light of the changes to the ABA Model Rules relating to multijurisdictional practice.

^x Supreme court order of voluntary compliance (UPL Rule 14) or determining UPL has occurred plus costs. Order is enforceable thru contempt proceeding before Supreme Court UPL (Rule 19)

^{xi} Active- The Committee of UPL regularly investigates individuals who may have engaged in the unauthorized practice of law. Most investigations are resolved by consent agreements.

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FL ⁴	Salaries/benefits; Space; Equipment/supplies; Travel/education /training; All functions of bar UPL staff and committees	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	Active	^{xiii} See Below	Yes – (Regulated) State Bar; Supreme Court.	^{xiv} See Below	Yes – law type activities only	Rule; Case Law	No – Criminal penalty recently raised to felony – if bill signed, becomes effective Oct. 1, 2004.
GA	-	-	-	-	-	-	-	-	-
HI ⁵	N/A	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	Active – State Attorney General's office has, in recent years actively investigated and prosecuted UPL cases	See Hawaii Revised Statutes 605-13 and 633-28	No	N/A	No	Rule	Yes –The Hawaii State Legislature. Hawaii State Bar Assn and Hawaii Supreme Court Ethics 2000 Committee are all addressing UPL Issues as well as the need for a practice of law definition.

^{xii} Attend administrative hearing; Pretrial activities; Give legal advice; Negotiate legal matters; Appear in court; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings; The scope of permitted practice by nonlawyers (for example, by employees, or before federal and local administrative agencies) is set forth in the exceptions in Rule 49(c).

^{xiii} Yes – (to a limited extent) Yes -Legal technicians; Legal Assistants/ Paralegals under the supervision of an attorney; Certain licensed individuals may engage in certain activities

^{xiv} Attend administrative proceedings (if qualified by hearing officer); Attend real estate closings; Participate in state administrative proceedings.

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ID ⁶	Salaries/Benefits; Space; Equipment/supplies; Travel/education/training	Civil Injunction; Civil Contempt; Criminal Fine; Prison; Restitution	Active – Not as active as other disciplinary actions.	Legal technicians; Legal Assistants/ Paralegals under the supervision of an attorney; Document prepareres; Depends on extent of work done	No	Attend administrative proceedings; Participate in alternative dispute resolution proceedings;	No – They cannot practice law	N/A	Yes – Idaho Rules of Professional Conduct 5.5 was revised and the revision will be effective on July 1, 2004.
IL	-	-	-	-	-	-	-	-	-
IN ⁷	N/A	Civil Injunction; Civil Contempt; Criminal Fine; Prison; Restitution	State Bar has filed a few cases. Disciplinary Commission has filed a few or resolved	No – unless authorized by federal law.	N/A	Attend real estate closings	No	Rule	Yes – State bar proposal pending (or soon to be submitted) to state submitted court.

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IA ⁸	Salaries/Benefits; Equipment/ Supplies Travel/education/ Training; Investigation and Prosecution.	Civil Injunction	informally. ^{xv} See Below	Yes – Legal Assistants/ Paralegals under the supervision of an attorney; Document preparers;	No	Attend administrative proceedings; Attend real estate closings; Participate in state administrative proceedings.	No	Case Law; Advisory Opinion	We are in the process of hiring a ¼ time investigator.
KS	-	-	-	-	-	-	-	-	-
KY ⁹	N/A	Civil Contempt	Active – We actively investigate the UPL and routinely send out cease and desist letters.	No	N/A	N/A	No	Advisory Opinion	No
LA	N/A	Criminal Fine; Prison	The Bar does not enforce UPL unless by a suspended or disbarred	No	No	N/A	No	Rule; S.Ct. Rule 19	No

^{xv} Active – we have a commission of 25, meet 6x yearly, open approx. 3 dozen files per year, obtain “cease and desist” agreements in most cases and prosecute otherwise w/ assistance of Attorney General who provides one attorney on an as needed basis.

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			lawyers						
ME ¹⁰	N/A	Criminal Fine; Prison	Active	^{xvi} See Below	No	^{xvii} See Below	No	Rule	No
MD ¹¹	N/A	^{xviii} See Below	Active	No	N/A	N/A	No	Rule; Case Law	No
MD ¹²	N/A	Civil Injunction; Criminal Fine; Prison; Civil Suit for misrepresentation/deceit.	Active; Bar Counsel	Yes – Legal Assistants/ Paralegals under the supervision of an attorney.	Yes. Court of Appeals.	N/A	No	Statute	Contemplating but no direct action underway.
MA	-	-	-	-	-	-	-	-	-
MI ¹³	Equipment/supplies; Travel/education/training	Civil Injunction; Civil Contempt	Active	^{xix} See Below	No	^{xx} See Below	Yes	N/A	Yes – The State Bar of Michigan plans on directing more resources to educational / outreach efforts to address UPL problems.

^{xvi} Yes – Maine’s statute makes general exceptions especially for persons represent; State agencies in certain circumstance

^{xvii} Attend administrative proceedings; Appear in court; Participate in state administrative proceedings.

^{xviii} Civil injunction; Criminal fine; Prison (if prosecuted by local state’s attorney

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MN ¹⁴	N/A	Civil Injunction; Criminal Fine; Prison; Restitution	Not Active	^{xxi} See Below	No	Prepare pleadings/wills /other legal documents	Yes	Rule; Case Law	Yes – Possible changes to Rule 5.5 as part of MJP review
MS ¹⁵	N/A	Civil Injunction; Criminal Fine; Prison; Restitution	^{xxii} See Below	No	N/A	N/A	No	Rule; Statute; Case Law; Advisory Opinion; See website for Advisory Opinions www.msbar.org	No
MO ¹⁶	N/A	Civil Injunction; Criminal Fine	Not Active	Yes – Legal Assistants/ Paralegals under the supervision of an attorney	No	^{xxiii} See Below	Yes	Case Law	^{xxiv} See Below

^{xix} Yes – Legal Assistants/ Paralegals under the supervision of an attorney; Non-lawyer representation in certain administrative agency proceedings

^{xx} Attend administrative proceedings; Participate in state administrative proceedings; Non-lawyers may appear on behalf of third parties in administrative agency proceedings if the legislature has so authorized. Under the new Dressel decision, non-lawyers may complete or draft documents that do not require the use of legal discretion or profound legal knowledge.

^{xxi} Yes – Legal Assistants/ Paralegals under the supervision of an attorney; law student practice inder supervision of licensed attorney.

^{xxii} The UPL Committee for the Mississippi Bar investigates claims and if it is determined the UPL has occurred, will issue a Cease and Desist Order and notify the appropriate District or County attorney of the activity for that office to prosecute under their Statutory Authority if they so choose.

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MT	-	-	-	-	-	-	-	-	-
NE ¹⁷	N/A	^{xxv} See Below	^{xxvi} See Below	No	N/A	^{xxvii} See Below	No	Rule; Case Law	Yes – We are making a concise definition.
NV	-	-	-	-	-	-	-	-	-
NH	-	-	-	-	-	-	-	-	-
NJ	N/A	Civil Injunction; Criminal Fine; Prison; Cease and desist agreements	Active	Yes – Legal Assistants/ Paralegals under the supervision of an attorney	Yes – Supreme Court	Attend administrative proceedings; Appear in court; Participate in state administrative proceedings; Participate in alternative dispute resolution	No	Rule	No

^{xxiii} Attend administrative proceedings; Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings.

^{xxiv} Yes – We would like to take enforcement actions, but currently lack the funds to do so. We have recently proposed a fee increase that would allow us to direct a portion of our budget to the prosecution of the UPL and would allow us to hire additional staff for investigation of these matters.

^{xxv} Civil Injunction; Civil contempt; Civil fine; Criminal fine.

^{xxvi} We have been slack in Nebraska but that is changing to being more active

^{xxvii} Attend Administrative proceedings; Attend real estate closings; Participate in State administrative proceedings; Participate in alternative dispute resolution proceedings.

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NM ¹⁸	N/A	Civil Injunction; Criminal Fine; Prison; possible disciplinary action taken against attorneys who are not licensed to practice in NM.	Not Active ^{xxviii}	No	Yes- Supreme Court	Attend administrative proceedings; Attend real estate closings Participate in state administrative proceedings; Participate in alternative dispute resolution proceedings.	No	Rule	Yes - Currently our State Bar is in the process of drafting a definition of "practicing law" and also reviewing enforcement practices and how to make the rules/statute more effective.
NY ¹⁹	N/A	Civil Injunction; Criminal Fine; Prison	Not Active	Yes – Legal Assistants/ Paralegals under the supervision of a lawyer	No	N/A	No	Rule; Statute; Case Law	No
NC ²⁰	^{xxix} See Below	^{xxx} See Below	Active	^{xxxi} See Below	No	Attend real estate closings	Yes	Rule; Statute	No

^{xxviii} The NM State Bar does investigate UPL complaints through its Client Attorney Assistance Program (CAAP). CAAP investigates & if appropriate, sends "cease and desist letters.

^{xxix} Salaries/Benefits; Space; Equipment/ supplies; Travel/ education/training;

^{xxx} Civil Injunction; Civil Contempt; Criminal Fine; Prison; Restitution

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ND	-	-	-	-	-	-	-	-	-
OH	-	-	-	-	-	-	-	-	-
OK ²¹	N/A	Civil Injunction; Civil Contempt	Not Active	No	No	Attend administrative proceedings	Yes – as a clerk or paralegal	Case Law; Advisory Opinion	Perhaps – We contemplate greater enforcement of UPL but it's not a priority given budgetary and personnel constraints.
OR ²²	N/A	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	Active	Yes – Legal Assistants/ Paralegals under the supervision of a lawyer	Yes – Bankruptcy court regulates document preparers.	Participate in alternative dispute resolution proceedings	Yes – But only to the same extent a non-lawyer could, i.e. acting under the direction of a licensed lawyer or without supervision as a scrivener.	Case Law	No
PA ²³	-	Civil Injunction;	Attorney General's	No	-	-	Yes – under supervision of a	Rule	No

^{xxx} Yes – Legal Assistants/ Paralegals under the supervision of an attorney

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		Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	Office, various D.A.'s various County Bar Associations, private individuals				licensed lawyer (not with anyone previously associated with); must be "non-attorney" work		
RI	-	-	-	-	-	-	-	-	-
SC ²⁴	N/A	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution	^{xxxii} See Below	No. UPL Rules, lists some exceptions to UPL regulations	N/A	^{xxxiii} See Below			
SD	-	-	-	-	-	-	-	-	-
TN	-	-	-	-	-	-	-	-	-

^{xxxii} Not Active- sporadic. There have been some UPL actions brought by either the AG or local solicitors Office(and one recent disciplinary action), but they are probably the exception rather than the rule. Enforcement is somewhat limited

^{xxxiii} Participate in state administrative proceedings – if allowed by agency; Participate in alternative dispute resolution proceedings – Court annexed ADR program rules specify that non-lawyers who are certified may serve as mediators in family court; certification is set by ADR rule and requires licensing in another profession as well as training – limited number of non-lawyer professions eligible for certification for court annexed ADR program – community mediation centers may use non-lawyers for their programs.

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TX	-	-	-	-	-	-	-	-	-
UT ²⁵	No	Civil Injunction; Civil Contempt only if repeated offenses	Active	No	N/A	Attend administrative proceedings ; Attend real estate closings; Participate in state administrative proceedings; participate in alternative dispute resolution proceedings	Yes	Policy	Massive change on horizon by mid-summer. Utah Supreme Court Rule setting for the definition for what constitutes the practice of law and a list of exceptions for permitted conduct.
VT	-	-	-	-	-	-	-	-	-

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VA ²⁶	This amount is for expenses of the Standing Committee on the UPL . These expenses include miscellaneous and travel expenses for committee members for meetings.	Civil Injunction; Criminal fine; Prison	Active	No	N/A	Attend real estate closings; participate in state administrative proceedings; participate in alternative dispute resolution proceedings	Yes	Rule	Yes – The Bar is organizing a task force to study multijurisdictional practice. As part of this stud, the task force will be reviewing UPL rules and enforcement as part of this study.
WA ²⁷	Salaries/benefits; space; Equipment/supplies; Travel/education/ Training; Board expenses.	Civil Injunction; Civil Contempt; Civil Fine; Criminal Fine; Prison; Restitution; Cease and	Active – Practice of law board actively investigates complaints seeks cease and desist agreements,	Yes – Document prepares; Limited license to practice law by real estate closing officers	Yes- Other Regulatory entity Board	Attend administrative proceedings; Attend real estate closings; Participate in alternative dispute resolution proceedings	No	Rule; Case Law	No

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		desist agreements	refers cases to prosecuting attorneys.						
WV	No	Civil injunction	Active	Yes – Legal Assistants/Paralegal under supervision of an attorney.	Yes – regulated; State Bar.	Participate in alternative dispute resolution proceedings.	No	Rule; Case law.	No
WI	-	-	-	-	-	-	-	-	-
WY ²⁸	Equipment/supplies; phone cells	Civil Injunction; Civil Contempt	Active	No	N/A	N/A	No	Rule	No

¹ Supreme Court of Arkansas UPL Committee

² Office of Disciplinary Counsel - Connecticut

³ Office Disciplinary Counsel

⁴ The Florida Bar

⁵ Consumer Protection Committee, Hawaii State Bar Association

⁶ Idaho State Bar

⁷ Indiana Supreme Court Disciplinary Commission

2004 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

- ⁸ Supreme Court Commission on the UPL
- ⁹ Kentucky Bar Association
- ¹⁰ Main Attorney General 's Office
- ¹¹ Attorney Grievance Commission of Maryland
- ¹² The Maryland Bar Center
- ¹³ State Bar of Michigan
- ¹⁴ Office of the Director of Lawyers Professional Responsibility (St. Paul, MN)
- ¹⁵ The Mississippi Bar
- ¹⁶ Missouri Office of Chief Disciplinary Counsel
- ¹⁷ UPL Committee of Nebraska
- ¹⁸ New Mexico State Bar, CAAP
- ¹⁹ New York State Bar Association
- ²⁰ Authorized Practice Committee of the North Carolina State Bar
- ²¹ Oklahoma Bar Association
- ²² Oregon State Bar
- ²³ Pennsylvania Bar Association
- ²⁴ South Carolina Bar
- ²⁵ Utah State Bar
- ²⁶ The Virginia State Bar
- ²⁷ Washington State Bar Association
- ²⁸ Wyoming State Bar

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