

**Kansas Bar Association
Unauthorized Practice of Law Committee**

**Committee Report Recommending Adoption
of Definition of Practice of Law.**

DEFINITION OF THE PRACTICE OF LAW

A. General Definition: The practice of law is ministering to the legal needs of another person and the application of legal principles and judgment with regard to the circumstances or objectives of another person which require knowledge of legal principles or the use of legal skill or knowledge. This includes but is not limited to:

- (1) Holding one's self out in any manner as an attorney, lawyer, counselor, advisor or in any other capacity which directly or indirectly represents, or creates any perception, that such person is either (a) qualified or capable of performing or (b) is engaged in the business or activity of performing any act constituting the practice of law as herein defined
- (2) Giving advice, counseling or rendering services to any person concerning or with respect to their legal rights or any matter involving the application of legal principles to rights, duties, obligations or liabilities.
- (3) Selecting, drafting, or completing any legal document or agreement involving or affecting the legal rights of a person.
- (4) Representing of another person in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution process or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review.
- (5) Negotiating or settling of a claim, legal right or responsibility on behalf of another person.
- (6) Engaging in an activity which has traditionally been performed exclusively by persons authorized to practice law, and
- (7) Engaging in any other act which may indicate an occurrence of the unauthorized practice of law in the State of Kansas as established by case law, statute, ruling, or other authority.

"Documents" includes, but is not limited to, contracts, deeds, easements, mortgages, notes, releases, satisfactions, leases, options, articles of incorporation and other corporate documents, articles of organization and other limited liability company documents, partnership agreements, affidavits, prenuptial agreements, wills, trusts, family settlement agreements, powers of attorney, notes and like or

similar instruments; and pleadings and any other papers incident to legal actions and special proceedings.

The term “person” includes a natural person, corporation, company, partnership, firm, association, organization, society, labor union, business trust, trust, financial institution, governmental unit and any other group, organization or entity of any nature, unless the context otherwise dictates.

The term “Kansas Lawyer” means a natural person who has been duly admitted to practice law in this State and whose privilege to do so is then current and in good standing as an active member of the bar of this State.

B. Exceptions. Whether or not it constitutes the practice of law, the following activity by a non-lawyer, who is not otherwise claiming to be a lawyer or to be able to practice law, is permitted:

- (1) Sale of a legal document form previously approved by a Kansas lawyer in any format.
- (2) Acting as a lay representative authorized by administrative agencies or in administrative hearings solely before such agency or hearing where:
 - (A) Such services are confined to representation before such forum and other conduct reasonably ancillary to such representation;
 - (B) Such conduct is authorized by statute, or the special court, department or agency has adopted a rule expressly permitting and regulating such practice.
- (3) Serving in a neutral capacity as a mediator or arbitrator.
- (4) Participation in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements.
- (5) Providing clerical assistance to another to complete a form provided by a court for protection under K.S.A. 60-3101 et seq. to provide protection from abuse when no fee is charged to do so.
- (6) Acting as a legislative lobbyist.
- (7) A real estate agent or broker, licensed by the State of Kansas, may complete forms previously approved by a Kansas lawyer including sales and associated contracts directly related to the sale of real estate and personal property for their customers.

- (8) An abstractor or title insurance agent, licensed by the State of Kansas, issuing real estate title opinions and title reports and preparing deeds for their customers.
- (9) Financial institutions and securities brokers and dealers licensed by the State of Kansas may inform customers with respect to their options for titles of securities, bank accounts, annuities and other investments made through such institution and lessee relationships of safe deposit boxes and access thereto.
- (10) Insurance companies and agents, licensed by the State of Kansas, may recommend coverage, inform customers with respect to their options for titling of ownership of insurance and annuity contracts, naming of beneficiaries and may adjust claims under the company's insurance coverage outside of litigation.
- (11) Health care providers may provide clerical assistance to patients in completing and executing durable powers of attorney for health care and natural death declarations when no fee is charged to do so.
- (12) Certified Public Accountants, enrolled IRS agents, public accountants, public bookkeepers, and tax preparers may prepare tax returns.
- (13) Such other activities that the Kansas Supreme Court has determined by published opinion or rule do not constitute the unlicensed or unauthorized practice of law or that have been permitted under a regulatory system established by the Kansas Supreme Court.