DRAFT RULE 5.5: UNAUTHORIZED PRACTICE OF LAW

(a) A lawyer shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction.

(b) A lawyer admitted to practice in another jurisdiction, but not in this jurisdiction, who represents a client in this state on a temporary basis does not engage in the unauthorized practice of law in this jurisdiction when:

1. The lawyer who is an employee of a client, acts on the client’s behalf, or on behalf of the client’s commonly owned affiliates, except for work for which pro hac vice or registration under Rule 3, North Dakota Admission to Practice Rules, is required;
2. The lawyer acts with respect to a matter that arises out of the lawyer’s representation of a client in a jurisdiction in which the lawyer is admitted to practice, except for work for which pro hac vice or registration under Rule 3, North Dakota Admission to Practice Rules, is required;
3. With respect to matters for which pro hac vice admission is available under Rule 3, North Dakota Admission to Practice Rules, the lawyer is authorized to represent a client or is preparing for a matter in which the lawyer reasonably expects to be so authorized;
4. With respect to matters, transactions or proceedings for which pro hac vice admission is not available under Rule 3, North Dakota Admission to Practice Rules, the lawyer is associated in the matter, transaction or proceeding with a lawyer admitted to practice in this jurisdiction who actively participates in the representation of the client in the matter, transaction or proceeding; or
5. The lawyer performs a service that may be performed by a person who is without a license to practice law or other authorization from a federal, state or local governmental body.

(c) A lawyer admitted to practice in another jurisdiction but not in this jurisdiction, who establishes an office or whose presence is other than temporary in this jurisdiction does not engage in the unauthorized practice of law in this jurisdiction when:

1. The lawyer who is an employee of a client, acts on the client’s behalf, or on behalf of the client’s commonly owned affiliates, and the lawyer is eligible for and has complied with the lawyer registration rules under Rule 3, North Dakota Admission to Practice Rules; or
2. The lawyer renders services in this jurisdiction pursuant to other authority granted by federal law or the law or Court rule of this jurisdiction;
(d) A lawyer who is not admitted to practice in this jurisdiction shall not represent or hold out to the public that the lawyer is admitted to practice law in this jurisdiction. A lawyer who practices law in this jurisdiction under one of the exceptions recognized by subparts (b) and (c) to this Rule shall disclose to the client that the lawyer is not licensed in this jurisdiction.

(e) A lawyer shall not assist another person in the unauthorized practice of law.