Mr. John Hollaway  
American Bar Association  
Commission on Multi-jurisdictional Practice  
541 North Fairbanks Court  
Chicago, Illinois 60611-3314

Dear Mr. Hollaway:

As Commander, Naval Legal Service Command, I would like to comment on the proposed amendments to Model Rules 5.5 and 8.5, presently under consideration by the American Bar Association’s Commission on Multi-jurisdictional Practice (the “Commission”). The Navy Judge Advocate General’s Corps strongly urges the Commission to add the following language to Rule 5.5(b)(2):

iv) the lawyer is an Armed Forces Legal Assistance attorney providing legal services pursuant to 10 U.S.C. § 1044, et seq.

The Navy legal assistance program, which operates under the authority of 10 U.S.C. § 1044, et seq., provides legal advice and representation to eligible clients at approximately 35 Naval Legal Service Office locations throughout the world. At present, the Navy has more than 100 attorneys providing legal assistance, few of whom are licensed in the states in which they are assigned. The vast majority of services provided through the program are rendered in the legal assistance attorney’s office, on a military installation or aboard a Naval vessel. The Navy’s legal assistance program embraces a wide spectrum of issues, but focuses primarily on estate planning, family law, immigration and naturalization, consumer rights, taxation, notary services, and various other civil matters. Last year, our program provided services to more than 125,000 personnel in over 700,000 separate matters. Of our active duty clients, 84% were enlisted personnel of modest income and limited assets who cannot afford to retain private counsel in most matters. The Navy legal assistance program is regarded as a significant benefit of military service, and a major quality of life program that enhances duty performance and retention of personnel. Additionally, it provides a service that may not otherwise be available.
I believe there is a genuine need to provide additional professional security to our counsel who provide legal assistance services. Some states, such as Virginia, are considering permitting our legal assistance attorneys to practice in their courts whether or not they are licensed in Virginia. Other states have adopted more restrictive rules on permitted practice by attorneys not licensed in the jurisdiction.

Navy legal assistance is a unique program. Our attorneys are trained extensively to provide legal assistance to eligible clients, including periods of instruction at our own “law school,” the Naval Justice School. Our program assists a substantial number of clients, most of whom are not domiciliaries of the states in which they perform their military duties and their legal issues transcend state borders. Our program is administered and supervised by the Secretary of the Navy and the Judge Advocate General under Title 10 of the U.S. Code. The creation of an additional professional “safe harbor” for our legal assistance attorneys is a matter of vital interest to the Navy and the Judge Advocate General’s Corps. These facts distinguish our multi-jurisdictional practice from commercial civilian practice, and justify a military legal assistance “safe harbor” provision.

Thank you for considering this request. Should the Committee require additional information regarding this matter, my point of contact is Commander Ann DeLancy, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Legal Assistance), at (703) 685-4637 or by e-mail at delaneyam@jag.navy.mil.

Sincerely,

Michael F. Lohr
Rear Admiral, JAGC, U.S. Navy