



RC ID # 2021-025 c

STATE OF CONNECTICUT
JUDICIAL BRANCH

COURT OPERATIONS DIVISION

OFFICE of CHIEF DISCIPLINARY COUNSEL

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Honorable Andrew J. McDonald
Connecticut Supreme Court
Chair, Superior Court Rules Committee
231 Capital Avenue
Hartford, CT 06106

Re: Proposal from the Connecticut Bar Association to amend Practice Book Section 2-44A and Rule 5.5 of the Connecticut Rules of Professional Conduct to provide that remote practice from Connecticut by attorneys licensed and in good standing in other jurisdictions is not the unauthorized practice of law (RC ID # 2021-025).

Dear Justice McDonald,

Please accept this correspondence as a joint response by the Statewide Grievance Committee and the Office of Chief Disciplinary Counsel to the Rules Committee's request regarding the proposal from the Connecticut Bar Association to amend Practice Book Section 2-44A and Rule 5.5 of the Connecticut Rules of Professional Conduct to provide that remote practice from Connecticut by attorneys licensed and in good standing in other jurisdictions is not the unauthorized practice of law (RC ID # 2021-025).

The Connecticut Bar Association has proposed the following rule:

“To the extent that a lawyer is physically present in this jurisdiction and remotely engages in the practice of law as authorized under the laws of another United States jurisdiction in which that lawyer is admitted and in good standing, and the lawyer is not disbarred or suspended from the practice of law in any jurisdiction, such conduct does not constitute the unauthorized practice of law in this jurisdiction.”

The Office of Chief Disciplinary Counsel is primarily responsible for prosecuting, when appropriate, the unauthorized practice of law in Connecticut. The OCDC has taken the informal position that remote practice does not violate our rules of professional conduct. There is a significant difference however, in the way the CBA and OCDC interpret the Practice Book that is reflected in their proposal. The CBA relies on sections of rule 5.5 that deal with out-of-state attorneys admitted in a foreign jurisdiction doing work in Connecticut on a temporary basis (multijurisdictional practice) as being authority for a

Connecticut admitted attorney to work remotely from another jurisdiction. But there is no direct authority for an attorney admitted in a foreign jurisdiction to work remotely from Connecticut. We do not believe this is accurate.

Rule 5.5 deals with attorneys, not admitted in Connecticut, performing legal work in Connecticut on a temporary basis in certain situations. This is multijurisdictional practice and requires that they file an application for each such occurrence. This section is certainly not authority that identifies whether an attorney working remotely from Connecticut is practicing law “in Connecticut”.

The OCDC has taken the position that being physically present in Connecticut and working remotely to a foreign jurisdiction to which an attorney is admitted is not the practice of law “in Connecticut”. It gets somewhat confusing because the terms that were used in the Practice Book did not contemplate addressing remote practice. We would take the position that there is no need to exempt remote practice from Connecticut because it is not the practice of law “in Connecticut”. I would delete the reference to whether the attorney is disbarred or suspended in any jurisdiction as being irrelevant because the attorney is not practicing law in Connecticut. Likewise, we would remove the word “unauthorized” for that same reason. This would be our suggestion.

“To the extent that a lawyer is physically present in this jurisdiction and remotely engages in the practice of law as authorized under the laws of another United States jurisdiction in which that lawyer is admitted ~~and in good standing, and the lawyer is not disbarred or suspended from the practice of law in any jurisdiction,~~ such conduct does not constitute the ~~unauthorized~~ practice of law in this jurisdiction.”

Very truly yours,

Brian B. Staines
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Attorney Michael P. Bowler
Statewide Bar Counsel

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