

Rule 5.5 amendments allow temporary practice in state

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New changes are coming to Rule 5.5 of the Minnesota Rules of Professional Conduct for attorneys, which governs multijurisdictional practice and the unauthorized practice of law, effective July 1, 2019.

Rule 5.5 prohibits a lawyer from “practic[ing] law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction.” Minn. R. Prof. Conduct 5.5(a). Under the rule, a lawyer not admitted to practice law in Minnesota cannot establish an office here, have a continuous presence in Minnesota for the practice of law, or represent that he or she is admitted to practice law in Minnesota. Minn. R. Prof. Conduct 5.5(b).

But Rule 5.5 has always carved out a few exceptions to the otherwise general prohibitions. For example, a lawyer admitted to practice law in a jurisdiction outside of Minnesota and not disbarred or suspended from practice in any other jurisdiction (i.e., “a non-Minnesota lawyer”), can temporarily practice law in Minnesota without being admitted to the Minnesota bar if the services provided are “reasonably related to the lawyer’s practice” in the jurisdiction in which the lawyer is admitted. Minn. R. Prof. Conduct 5.5(c)(4).

The Minnesota Supreme Court recently adopted changes to Rule 5.5 to clarify what “reasonably related” legal services encompass. This amendment to Rule 5.5(c)(4) is a response to a rather controversial attorney discipline case. In *In re Charges of Unprofessional Conduct* in Panel File No. 39302, 884 N.W.2d 661 (Minn. 2016), a lawyer licensed to practice law in Colorado, but not licensed to practice law in Minnesota, was privately admonished and found to have engaged in the un-



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authorized practice of law in Minnesota when the lawyer represented his mother-in-law and father-in-law (who were Minnesota residents) on a matter in Minnesota that was unrelated to the lawyer’s Colorado practice. *Id.* That case addressed the previous Rule 5.5(c)(4), which allowed out-of-state lawyers to practice law in Minnesota temporarily if the services provided “arise out of or are reasonably related to the lawyer’s practice in a jurisdiction in which the lawyer is admitted to practice.” The court refused to read “reasonably related” in a way that would erase the general prohibition on the unauthorized practice of law. *Id.* at 669 n.4.

The Minnesota Supreme Court recognized the need to better define what services are “reasonably related” to a non-Minnesota lawyer’s practice. Accordingly, it has now amended Rule 5.5(c)(4) to state “reasonably related services include services that are within the lawyer’s recognized expertise in an area of law, developed through the regular practice of law in that area in a jurisdiction in which the lawyer is li-

censed to practice law.” The court has also adopted a specific carve out that allows a non-Minnesota lawyer to represent family members, whether or not such representation is reasonably related to the lawyer’s expertise. It declined, however, to extend that carve out to individuals with whom the lawyer has a “close” relationship, finding that proposal too vague.

In addition, the Minnesota Supreme Court amended Rule 5.5(d) to allow a lawyer who has physically relocated to Minnesota to continue to practice the law of the lawyer’s home jurisdiction, including federal law or tribal law, so long as the lawyer discloses to the client that the lawyer is not licensed to practice law in Minnesota. This amendment means that a non-Minnesota lawyer is now authorized to provide legal services in Minnesota that exclusively involve federal law, tribal law, or the law of the jurisdiction in which the lawyer is licensed to practice.

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