

Chapter 1 : The Unauthorized Practice of Law - LawShelf Educational Media

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so. (b) A lawyer who is not admitted to practice in this jurisdiction shall not: (1) except as authorized by these Rules or other law.

If, after reading this article, you would like more information, we invite you to contact us at Shouse Law Group. Either advertising or holding oneself out as practicing or entitled to practice law, OR actually practicing law, While one is not an active member of the California State Bar or otherwise authorized to practice law by a statute or court rule. Eleanor failed the California bar exam on her first try and is studying to take it a second time. She plans to open up a solo practice after she passes the bar. In order to start drumming up business, she makes contact with people on the internet who have legal questions and offers them her advice on those questions. Even though Eleanor is not representing anyone in court, she is offering legal advice—and so may be committing the crime of unauthorized practice of law. Creating and selling subscriptions to a software program that will prepare bankruptcy filings for customers;⁸ Representing people in state administrative hearings such as professional license suspension proceedings;⁹ Giving advice about the law of other states or a foreign country;¹⁰ and Preparing stipulations and releases. Scott was a practicing lawyer for several years before starting a successful trucking company. Scott is trying to get his child admitted to a prestigious private school. Technically, Scott may have just committed the crime of unauthorized practice of law—since he inaccurately represented that he was authorized to practice law in California. Otherwise, you are committing the offense of practicing law without a license. Knowledge that you have been involuntarily placed on inactive status For some California lawyers accused of unauthorized practice of law, there is a requirement that you knew that you were on inactive status and so ineligible to practice law. Unauthorized practice of law by non-lawyers For people who have never been admitted to the California State Bar or let their membership lapse voluntarily, unauthorized practice of law is a misdemeanor. The potential penalties include: While she is fighting the charges, the State Bar places her on involuntary inactive status. Because she believes she is being wrongfully charged with a crime, Ramona continues to represent clients and help them fight for their rights. But this just leads her to be charged with the unauthorized practice of law. She is eventually acquitted of mortgage fraud—but she is convicted of unauthorized practice of law and ends up with a felony penalty of 2 year in jail! Legal Defenses to Unauthorized Practice of Law Charges Most people charged with unauthorized practice of law in California know something about some area of law—but many of them are unfamiliar with criminal law and the criminal court system. An experienced criminal defense attorney is an invaluable asset when you are facing charges as serious as these. Some of the legal defenses that an attorney can help you use to fight unauthorized practice of law charges include: Companies like Nolo and LegalZoom are using the internet to help people avoid the need to hire a traditional lawyer. Meanwhile, lawyers are under increasing pressure to cut costs for their clients, which can lead to creative staffing solutions in which non-lawyers play a big role. Proving knowledge can be quite difficult—and prosecutors know it. In these cases, it may be possible to get the charges dismissed. California Unauthorized Practice of Law and Related Topics Other topics in California criminal law that may be of interest to someone facing unauthorized practice of law BPC charges include: Unauthorized practice of medicine As with the unauthorized practice of law, California law also makes the unauthorized practice of medicine a crime. If it is charged as a misdemeanor, it may be punished by one 1 year in county jail. If it is charged as a felony, it can earn a defendant sixteen 16 months, two 2 years or three 3 years in prison. Criminal convictions and attorney discipline in California Many unauthorized practice of law cases occur after a California attorney has faced attorney discipline due to a criminal conviction. California attorneys typically face disbarment when they are convicted of crimes involving moral turpitude. Upon a second or subsequent conviction, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a sentence of less than 90 days for a second or subsequent conviction under this subdivision, the court shall state the reasons

for its sentencing choice on the record. However, any person who has been involuntarily enrolled as an inactive member of the State Bar pursuant to paragraph 1 of subdivision e of Section and who knowingly thereafter practices or attempts to practice law, or advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment pursuant to subdivision h of Section of the Penal Code or in a county jail for a period not to exceed six months. See also Penal Code h PC. In the case of *Eley v. But* in a larger sense it includes legal advice and counsel, and the preparation of legal instruments and contracts by which legal rights are secured although such matter may or may not be depending in a court. Superior Court Cal. State Bar 13 Cal. BAP B. Involuntary treatment or confinement; involuntary inactive enrollment [as basis for unauthorized practice of law charges]; restoration to capacity; effect on disciplinary investigations or proceedings; membership fees not to accrue; interim remedies. See also Penal Code h PC, endnote 5, above. See also Penal Code PC -- Offenses for which no fine prescribed; fine authorized in addition to imprisonment. Practice, attempt, or advertising without certificate [unauthorized practice of medicine; compare to unauthorized practice of law]; punishment; conspiracy or aiding and abetting; punishment. In any proceeding, whether under this article or otherwise, to disbar or suspend an attorney on account of that conviction, the record of conviction shall be conclusive evidence of guilt of the crime of which he or she has been convicted. Nothing in this article limits the inherent power of the Supreme Court to discipline, including to summarily disbar, any attorney.

Chapter 2 : Wisconsin Lawyer: The Unauthorized Practice of Law: Court Tells Profession, Show us the Ha

If they do, they could be prosecuted for the unauthorized practice of law (UPL). If an attorney practices law while their license is suspended, under suspension or after they are disbarred, it is also considered the unauthorized practice of law.

The authority of the Supreme Court can be found in the South Carolina Code of Laws at Section , available online or at a local library. Except where a person is representing his or her own cause, practicing law without a license is strictly prohibited by state law. As of , Section was amended to prohibit the representation of another, with or without permission from a court. The biggest problem in determining whether someone is engaged in the unauthorized practice of law is determining whether his or her conduct is actually the "practice of law. Code Section allows the Supreme Court to adopt rules "defining and regulating the practice of law. The practice of law is more than just appearing in court on behalf of a client. Though no concise definition of practice of law exists, certain characteristics make it more likely that the Court will view certain conduct as the practice of law. An early South Carolina case, cited by other jurisdictions as well, stated that the practice of law includes "the preparation of legal instruments of all kinds, and in general all advice to clients and all action taken for them in matters connected with the law. The practice of law "extends to activities in other fields which entail specialized legal knowledge. Additionally, whether an individual is paid for his or her services is irrelevant. The reasons for prohibiting the unauthorized practice of law are not to protect licensed attorneys from losing business to unlicensed individuals. Rather, the purpose is to protect the public from consequences resulting "from the erroneous preparation of legal documents or the inaccurate legal advice given by persons untrained in the law. Preparation of deeds, mortgages and other legal instruments related to transfers of real estate falls within the practice of law. Additionally, the Supreme Court ruled that "real estate and mortgage loan closings should be conducted only under the supervision of attorneys, who have the ability to furnish their clients legal advice should the need arise Click here for more information. Public insurance adjustment does not necessarily constitute the practice of law, and is regulated by SC Code section Insurance adjustment is limited to include: Insurance adjustment violates restrictions on unauthorized practice of law when conduct includes: A disbarred attorney prepared and filed a deed for a small fee. Though he argued that he was merely acting as a paralegal, his conduct constituted the practice of law. Paralegals do not engage in the practice of law as long as their work is "of a preparatory nature, such as legal research, investigation, or the composition of legal documents, which enable a licensed attorney-employer to carry a given matter to a conclusion through his own examination, approval or additional effort. A paralegal wanted to conduct unsupervised "wills and trusts" seminars for the public. Because the paralegal planned to advise potential clients of their need for particular estate planning devices, such advice requires professional judgment by a licensed attorney. A paralegal advertised, "If your civil rights have been violated, call me. At the time of the case, it was legal for a non-lawyer to defend the cause of another after receiving permission by the court. Now, it is illegal for an unlicensed person to represent anyone other than himself or herself. A certified paralegal offered voluntary services for persons in need of assistance with housing and landlord-tenant issues. The paralegal prepared and filed a complaint lawsuit in federal court relating to unlawful eviction. He also prepared pleadings filed in state circuit court alleging unlawful termination of public assistance benefits. The fact that the paralegal was not paid was irrelevant. The Supreme Court ruled that his actions amounted to the practice of law, which includes "the preparation of pleadings and the management of court proceedings. Of the City of Charleston v. Though someone may represent himself or herself pro se, this exception applies only to individuals. Because a corporation is an artificial entity created by law, it cannot represent itself. A corporation must be represented by a licensed attorney in circuit and appellate courts. Though an individual can appear on behalf of him or herself, a corporation cannot appear or act in person, and cannot practice law. The Court reasoned that, "[i]f a corporation could appear in court through a layman upon the theory that it was appearing for itself, it could employ any person, not learned in the law, to present it in any or all judicial proceedings. Legal document computer programs. A businesswoman used a computer program to generate legal documents

for other persons to be filed in family court. The Supreme Court found this activity amounted to the unauthorized practice of law when it involves "the giving of advice, consultation, explanation or recommendations on matters of law," and "instructing other individuals in the manner in which to prepare and execute such documents. State agencies may permit non-lawyers to appear and represent clients before it. Certified public accountants CPAs maintain a special status before the court. It is not the unauthorized practice of law for a CPA to represent clients before an agency or Probate Court if it is within his or her professional expertise and qualifications. What can I do if I suspect someone is practicing law without a license? Contact your local solicitor or the South Carolina Office of the Attorney General; they enforce the criminal statutes prohibiting the unauthorized practice of law UPL.

Chapter 3 : Supreme Court of Texas Unauthorized Practice of Law Committee

Analysis Quicksand! Multijurisdictional Law Firms and the Unauthorized Practice of Law Today's multijurisdictional practice is likely to be a solo or small partnership, house counsel, legal staff.

The Colorado Constitution gives the Colorado Supreme Court the power to regulate the practice of law. Through this grant of authority, the Colorado Supreme Court may regulate and prevent the practice of law by individuals who are not licensed to practice law in Colorado. The purpose of the unauthorized practice of law rules is to protect the public. The Colorado Supreme Court can prevent an individual from continuing to engage in the unauthorized practice of law by issuing a civil injunction. The Colorado Supreme Court, or its UPL Committee, can enter into a written agreement with the individual that requires the individual to refrain from the unauthorized practice of law. The Office of Attorney Regulation Counsel cannot give legal service or advice to an individual who files a request for investigation. Proceedings are designed to prevent future unauthorized practice of law. These proceedings may help you by requiring the non-lawyer to refund any money you paid. The proceedings are not designed, however, to represent any interests on your part. If you have suffered a financial or property loss, your rights must primarily be enforced by the usual legal methods against the person responsible for the loss. Where do I file a complaint? You may file a complaint about the unauthorized practice of law by providing a written request for investigation to our office. This request can be in letter form. Please do not send the original documents. All matters received by our office are first reviewed to determine whether this office has jurisdiction to investigate the allegations. If this office has jurisdiction, an investigation will take place. The non-lawyer may be sent a copy of your request for investigation. If the matter is designated for further investigation, it will be assigned to an attorney within the trial division of the Office of Attorney Regulation Counsel. At this level, a complete and objective investigation will take place. If, at the conclusion of the investigation, Regulation Counsel does not believe unauthorized practice of law occurred, the matter will be dismissed. On the other hand, if Regulation Counsel believes that there was unauthorized practice of law, the matter will be forwarded to the UPL Committee. If the UPL Committee determines that the individual did engage in the unauthorized practice of law and that the activity is likely to continue, the Committee may request that the individual sign an agreement to stop further unauthorized practice. If the conduct involves the unauthorized practice of law and the individual will not sign an agreement to stop the unauthorized practice, the UPL Committee can approve injunctive proceedings. Injunctive proceedings are before the Colorado Supreme Court and seek a civil injunction, which orders the non-lawyer to stop engaging in unauthorized practice. If there has been a violation of a previous order of injunction, the UPL Committee can authorize an action before the Colorado Supreme Court for criminal contempt. If the UPL Committee recommends injunctive or contempt proceedings, the Office of Attorney Regulation Counsel will file a petition for injunction or contempt against the non-lawyer before the Colorado Supreme Court. The Colorado Supreme Court then appoints a hearing master to hold a trial on the matter. The hearing master will hear all relevant evidence, which may include your testimony and the testimony of the non-lawyer and any other witnesses. The hearing master then makes findings of fact and files a report and recommendations with the Colorado Supreme Court. It has final authority to determine guilt in an action for criminal contempt and to issue an order enjoining the non-lawyer from further activity. On the other hand, if Regulation Counsel believes that there was unauthorized practice of law, the matter will be forwarded to the UPL Committee. You can expect that your inquiry will receive prompt and full attention. Investigations are usually completed within eight months. You can expect that every effort will be made to deal with your inquiry in a manner which is fair to both you and the individual about whom you inquire. You can expect to receive written notice of the final disposition. Nor, in fairness to you, can the non-lawyer about whom you inquire expect that the allegations will be decided based solely on his or her understanding of what happened. The final decision must depend upon the weight of the available and relevant evidence and testimony. Are the Proceedings Confidential? Once an inquiry is reviewed and a file is opened, the fact that an investigation is pending and the status of the investigation cannot be disclosed, except that information can be disclosed to certain government

agencies. Only after a petition for injunction or contempt is filed with the Colorado Supreme Court does the matter become public information. At that time, the court file is available to anyone who wishes to see it. Review of court files is available only during regular business hours. A fee for copies is required.

Chapter 4 : Complaints/Discipline - Attorney Regulation Counsel

Law Firms And Associations [1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis.

Reporting and Preventing the Unauthorized Practice of Law Reporting and Preventing the Unauthorized Practice of Law Sometimes individuals and businesses represent that they can provide legal services or help to prepare legal documents for members of the public even though they are not lawyers. They may be engaged in the unauthorized practice of law. Under North Carolina law, only licensed attorneys may provide legal services or prepare or help prepare legal documents for another person. The North Carolina State Bar is authorized to investigate and act on reports of the unauthorized practice of law. The following questions and answers explain the unauthorized practice of law and how to report it to the State Bar. The summary is not intended to be a comprehensive explanation of the unauthorized practice of law: What is the practice of law? The North Carolina state legislature has defined the practice of law in North Carolina as: The list of specifically identified activities that constitute the practice of law includes: This list of specific activities is provided only as examples. Any activities involving the preparation of legal documents, giving legal advice, or providing legal services for another constitutes the practice of law. What is the unauthorized practice of law? The unauthorized practice of law is engaging in the practice of law in North Carolina or advertising or otherwise holding out to the public of an ability to provide legal services by someone other than a licensed North Carolina attorney. The unauthorized practice of law is illegal because a person who is not trained and licensed as an attorney may seriously harm the interests of a member of the public by providing incompetent legal services. Who may provide legal services in North Carolina? Under the statutes, only licensed North Carolina attorneys may provide legal services in North Carolina , represent that they are attorneys, or appear in court on behalf of another party. Are there any exceptions? The primary exception to the unauthorized practice of law rules is the exception for self-representation – an individual may prepare legal documents for his own use and may represent himself or herself in court. By statute and regulation, some federal agencies permit lawyers licensed in any jurisdiction and nonlawyers to provide limited legal services before that agency. Citizenship and Immigration Services USCIS Although these agencies permit certain activities by nonlawyers, the services that may be provided are limited and persons who are qualified to appear before these agencies may not hold themselves out as North Carolina attorneys. May a non-lawyer do legal work for a relative, friend, or another person if the non-lawyer does not charge any money or fees for such work? This is because the potential for harm still exists. May a non-lawyer represent another person in negotiations or settlement discussions on a legal claim, such as an automobile accident or personal injury matter? Even if no lawsuit has been filed, assisting another person with settlement negotiations on a legal claim constitutes the unauthorized practice of law. May a paralegal represent another person or provide legal services directly to a member of the public? A paralegal or other non-lawyer may only perform work constituting the practice of law if it is under the supervision and at the direction of a licensed North Carolina attorney. Attorneys may hire or contract with paralegals or other non-lawyers to perform such services provided the non-lawyers are properly supervised. May a business represent itself? A business may prepare its own legal documents and may use nonlawyer employees to appear in small claims court on its behalf. However, corporations must be represented in other court proceedings by a licensed North Carolina attorney. May a nonlawyer help me fill out a legal form? Generally, no, especially if the assistance involves helping you understand what needs to be filled in, advising you of the consequences of completing the form in a certain manner, or otherwise providing legal advice concerning the completion of the form. May a business provide legal services? No, unless the business is a law firm or certain qualified, nonprofit organizations. Both by statute and court decision, a business entity, whether for profit or nonprofit, may not provide legal services to its customers, even if those services are performed by licensed attorneys. What can happen to someone who engages in the unauthorized practice of law? The unauthorized practice of law is a misdemeanor criminal offense that may be prosecuted by the local

district attorney. Additionally, accepting fees for unauthorized practice of law may involve other crimes, such as false pretense, that are felonies. The State Bar may ask the courts for an injunction to prohibit a person or business from engaging in the unauthorized practice of law. Engaging in unauthorized practice of law may also expose a person to potential civil liability to a person harmed by the unauthorized practice including potential claims of fraud or unfair and deceptive trade practices. What should I do if I am harmed by a nonlawyer engaged in unauthorized practice of law? First, contact a licensed attorney for advice on your individual rights and remedies. Second, report the matter to the State Bar. How should I report the matter to the State Bar? Your complaint should be in writing. No particular form is required. Include your name, address and phone number as well as the name, address, and phone number of the non-lawyer if you have that information. Try to set forth the facts on which your allegations are based. Include the names and contact information of any witnesses. Attach copies of any relevant court papers, documents, letters, or other materials with your complaint. Please do not send the original documents to the Bar office. We cannot be responsible for the return of originals. Address your complaint to:

Chapter 5 : State Bar of Arizona :: Regulation of Non-Lawyers

Cases, and Commentary on the Unauthorized Practice of Law (Justine Fischer & Dorothy H. Lachmann, eds.) [hereinafter Unauthorized Practice Handbook] (listing UPL statutes concerning associations by state); Standing Comm. on Lawyers'.

Chapter 6 : Unauthorized Practice of Law | North Carolina State Bar

The Law for Lawyers Today is a resource for law firms, law departments and lawyers needing information to meet the challenge of practicing ethically and responsibly. Here you'll find timely updates on legal ethics, the "law of lawyering," risk management and legal malpractice, running your legal business" and more.

Chapter 7 : Unauthorized Practice of Law | South Carolina Bar

Allegations of unauthorized practice of law are sent to staff counsel for the Authorized Practice Committee. Staff counsel for the Committee is a designated attorney within the State Bar's Office of Counsel.

Chapter 8 : Prosecuting the Unauthorized Practice of Law

New Jersey has a law which makes it a "disorderly persons offense" to knowingly to engage in the unauthorized practice of law, and a "crime in the fourth degree" to commit UPL if one (a) creates a false impression that one is a lawyer; (b) derives a benefit from UPL, or (c) causes an injury by UPL.

Chapter 9 : Unauthorized practice | The Law for Lawyers Today

The Attorney General's Office can file civil lawsuits against individuals and companies engaged in the unauthorized practice of law. Some of these cases involve people who are not licensed attorneys but who provide legal advice for a fee and/or attempt to represent clients in court.