

Jeff Guillory
Brian Kuhlmann
Geneau Thames

Navigating Multi-Jurisdictional Practice Challenges for In-House Counsel

Multi-jurisdictional practice (MJP) is a daily reality for in-house counsel and is a frequently overlooked source of ethical risk. For in-house counsel, multi-jurisdictional risk often arises from providing ongoing legal services for a company headquartered in a state where the lawyer is not licensed. Many in-house attorneys regularly provide legal advice from or into jurisdictions that require corporate counsel registration or limited admission, even though the work is confined to a single employer. The Rules of Professional Conduct vary widely by state and are not always intuitive, particularly when applied to modern corporate legal departments. The consequences of non-compliance can be significant.

We will examine the licensure and registration obligations that arise when in-house counsel work for companies headquartered outside their licensing jurisdiction, focusing on common compliance gaps and practical steps legal departments can take to manage these risks in a defensible and operationally realistic way.

What is MJP?

MJP refers to providing legal services in a jurisdiction where a lawyer is not licensed. For in-house counsel, this often occurs when working for a company headquartered in a state in which they are not licensed; since COVID, it has become even more common when in-house counsel work remotely without relocating to the company's home state.

While most states allow MJP, there is little consistency among states. Failure to adhere to a state's MJP rules can result in allegations of engaging in the unauthorized practice of law (UPL).

In a 2025 report, the Association of Corporate Counsel (ACC) reported that over half of the respondents to a survey of its members found that the rules surrounding MJP for in-house counsel were confusing or in conflict. Additionally, almost one-third of respondents claimed that issues and uncertainties surrounding MJP deter them from seeking or accepting employment in states where they are not licensed.

The concerns of in-house MJP include the unclear rules that vary state by state, the duplicative licensing or registration burdens, the cost and administrative delays of new applications, the professional risks of running afoul of UPL, and the potential loss of attorney-client privilege.

Rule 5.5

After a series of cases where a court held that lawyers from one state helped an affiliated company of a client company settle a dispute in another state were engaged in the unauthorized practice of law, the ABA adopted Model Rule 5.5 [See: *Birbrower, Montalbano, Condon & Frank, P.C., et al. v. The Superior Court of Santa Clara County*, 949 P.2d 1 (Cal.1998)]. A few years later, Rule 5.5(d) was adopted which contains an exemption from the licensure requirements for in-house counsel.

Rule 5.5: Unauthorized Practice of Law; Multi-jurisdictional Practice of Law

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(d) A lawyer admitted in another United States jurisdiction or in a foreign jurisdiction, and not disbarred or suspended from practice in any jurisdiction or the equivalent thereof, or a person otherwise lawfully practicing as an in-house counsel under the laws of a foreign jurisdiction, may provide legal services through an office or other systematic and continuous presence in this jurisdiction that:

(1) are provided to the lawyer's employer or its organizational affiliates, are not services for which the forum requires pro hac vice admission; and when performed by a foreign lawyer and requires advice on the law of this or another U.S. jurisdiction or of the United States, such advice shall be based upon the advice of a lawyer who is duly licensed and authorized by the jurisdiction to provide such advice; or

(2) are services that the lawyer is authorized by federal or other law or rule to provide in this jurisdiction.

Rule 5.5 (d) allows in-house lawyers to practice law in jurisdictions where they are not licensed as long as they are a member in good standing in another state, do not represent anyone other than their employer, and do not appear in court. Under Rule 5.5, a lawyer does not have to become a member of that state's bar to serve as in-house counsel, either by taking the bar exam or by filing a motion.

Comment 16 to Rule 5.5 explains the rationale behind the Rule:

Comment 16: *Paragraph (d)(1) applies to ... in-house corporate lawyers, government lawyers and others who are employed to render legal services to the employer. The lawyer's ability to represent the employer outside the jurisdiction in which the lawyer is licensed generally serves the interests of the employer and does not create an unreasonable risk to the client and others because the employer is well situated to assess the lawyer's qualifications and the quality of the lawyer's work.*

Registration

If Rule 5.5(d) were the only Rule, an attorney licensed in any U.S. state would be able to work in any other state as in-house counsel. However, a majority of states require the additional step of registering with the state bar association before they can practice under Rule 5.5(d).

36 states now require in-house counsel licensed in another jurisdiction to register, pay a fee of up to \$1,500, and may require additional steps similar to licensure such as character and fitness investigations, fingerprinting, and CLE reporting obligations. 13 states and the District of Columbia do allow in-house counsel to practice without registering.

Where Rule 5.5(d) was meant to create a safe harbor for in-house lawyers, registration requirements have broadened the UPL risk considerably.

Registration Requirement (36)	No Registration Requirement (14)
Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Virginia, Washington, Wisconsin	Alaska, Arkansas, District of Columbia, Georgia, Maine, Maryland, Montana, New Hampshire, North Carolina, South Dakota, Texas, Vermont, West Virginia, Wyoming
* Hawaii – Has not adopted Rule 5.5 (d) but allows attorneys to work remotely in Hawaii for companies in other states.	

Registration Examples:

The registration requirements of the states vary incredibly in their complexity. Some have the same requirements as a license granted through reciprocity, while others are as simple as an on-line form. Some are a one-time process, and others require yearly registration. There is no uniformity. For illustration, we compared Missouri, Mississippi, and Nebraska to highlight the variations and increasing nuance in registration rules. As is evident, for in-house counsel operating across state lines, careful tracking of work location changes, remote-work arrangements, and internal transfers is essential to avoid inadvertent unauthorized practice of law exposure.

Topic	Missouri	Mississippi	Nebraska
Governing Authority	Rule 8.105, Missouri Supreme Court	Rule 5.5(d), Mississippi RPC	Neb. Ct. R. §§ 3-1201 – 3-1204
Type of Authorization	Limited license	Mandatory registration (no license)	Mandatory registration or full admission
Who Is Covered	U.S. and certain foreign lawyers	U.S. licensed lawyers	U.S. and DC licensed lawyers
Primary Trigger	Exclusive in-house employment in MO	Systematic presence in MS	Continuous presence in NE as in-house counsel
Exclusive Employer Required	Yes	Yes	Yes
Employer Type	Qualified non-law entities	Employer and affiliates	Qualified non-law entities and affiliates
Education Requirement	ABA J.D./LL.B. or foreign equivalent	Not specified	Not specified
Good Standing	Required in all jurisdictions	Required	Required with disciplinary certificates
Application / Registration	Formal application + approval	Bar registration	Supreme Court registration
Deadline	Before practice	Annual compliance	Within 90 days of employment
Approval Discretion	Yes – not a right	Not specified	Yes – not a right
Employer Certification	Affidavit required	Proof of employment	Detailed certification required
Scope of Practice	Employer only; limited pro bono	Employer and affiliates only	Employer and affiliates only
Annual Renewal	Employment-based	Yes	Yes

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Topic	Missouri	Mississippi	Nebraska
Fees (as stated)	Non-refundable application fee	\$380 annually	\$700 (refundable if denied)
Employment Termination	License nullified	Registration ends	Registration ends
Failure to Comply	Unauthorized practice risk	Unauthorized practice risk	No exceptions other than admission

“Systematic and Continuous Presence”

Rule 5.5 addresses “systematic and continuous presence” in multiple provisions. Before Covid, many in-house lawyers worked on-site at their companies’ headquarters, and the combination of Rule 5.5(d)(1) and corporate counsel registration requirements generally clarified how to avoid UPL concerns. Today, companies routinely hire remote in-house counsel, and that shift makes the “systematic and continuous presence” analysis less clear.

Missouri Ethics Opinion 2024-02

Question: *Lawyer is licensed in State A and will be working virtually from State A for a corporation that is located in Missouri. Is lawyer required to seek admission in Missouri?*

Answer: *Yes. Rule 4-5.5(b)(1) prohibits a lawyer from establishing an “office or other systematic and continuous presence in this jurisdiction for the practice of law.” Comment [4] to Rule 4-5.5 notes that “[p]resence may be systematic and continuous even if the lawyer is not physically present here.” Per Rule 4-5.5(d), a lawyer not licensed in Missouri that is providing legal services to the lawyer’s employer or organizational affiliates may seek a “limited license pursuant to Rule 8.105 or a general license pursuant to other provisions of Rule 8.”*

Tennessee Opinion 2022-F-168

Whether a lawyer who resides and is domiciled outside of Tennessee, who is working remotely as full-time, in-house counsel for an organization that has its principal place of business in Tennessee (and offices in other states), who is admitted to the practice of law only in a jurisdiction other than Tennessee, and who is not registered as in-house counsel in Tennessee is engaging in the unauthorized practice of law. In other words, do such circumstances themselves establish a ‘systematic and continuous presence’ in Tennessee for the practice of law as in-house counsel.

OPINION

A lawyer who resides and is domiciled outside of Tennessee, who is working remotely as full-time, in-house counsel for an organization that has its principal place of business in Tennessee (and offices in other states), who is admitted to the practice of law only in a jurisdiction other than Tennessee, and who is not registered as in-house counsel in Tennessee is not engaging in the unauthorized practice of law because these circumstances alone do not establish a “systematic and continuous presence in Tennessee for the practice of law” as in-house counsel unless the lawyer is engaging in conduct that would evidence an indicia of a presence in Tennessee for the practice of law.

Remote Work

After Covid, remote work became commonplace and that has created new MJP questions. If an in-house counsel is licensed or registered in the employer’s home state but has moved to another state and works

there, does the lawyer also have to register in the new state where they now live? Many states, and the ABA¹, have reviewed this issue.

At least 23 states that have reviewed this issue have allowed remote work in their jurisdiction by attorneys licensed elsewhere without licensure (or presumably registration) as long as the work is tied to their home licensed jurisdiction: California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Kentucky, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Washington, and Wisconsin.

Other states appear to allow it implicitly through their version of Rule 5.5: Indiana, Maryland, Minnesota, New Hampshire, New Mexico, North Carolina, Ohio, Rhode Island, South Dakota, and Tennessee.

One state held differently:

Missouri Ethics Opinion 2024-03

Question: Lawyer is licensed in State A but lives in Missouri. Lawyer is not licensed in Missouri. Lawyer plans to work for a law firm located in State A from Lawyer's home office in Missouri. Is Lawyer required to seek admission in Missouri?

Answer: Yes. Rule 4-5.5(b)(1) prohibits a lawyer from establishing an "office or other systematic and continuous presence in this jurisdiction for the practice of law." That includes the practice of law of State A from Missouri. Lawyer does not meet any of the exceptions in 4-5.5(c) and is required to seek admission in Missouri.

Rule 8.5²

The disciplinary rules also become more complicated for in-house counsel. Rule 8.5 subjects an in-house counsel practicing in the state without that state's license to the disciplinary authority of the state as well as the lawyer's home state. Failure to register as in-house counsel in a state requiring it may result in disciplinary proceedings from both the state where the lawyer works and the state where the lawyer is licensed.

Attorney-Client Privilege

¹ ABA Formal Opinion 495 (2000): Lawyers may remotely practice the law of the jurisdictions in which they are licensed while physically present in a jurisdiction in which they are not admitted if the local jurisdiction has not determined that the conduct is the unlicensed or unauthorized practice of law and if they do not hold themselves out as being licensed to practice in the local jurisdiction, do not advertise or otherwise hold out as having an office in the local jurisdiction, and do not provide or offer to provide legal services in the local jurisdiction.

This practice may include the law of their licensing jurisdiction or other law as permitted by ABA Model Rule 5.5(c) or (d), including, for instance, temporary practice involving other states' or federal laws. Having local contact information on websites, letterhead, business cards, advertising, or the like would improperly establish a local office or local presence under the ABA Model Rules.

² Rule 8.5: (a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

There does not appear to be a reported case involving the loss of attorney-client privilege by an in-house attorney who has not registered with the state bar of their employer's home jurisdiction, but the risk for allegations of UPL and the loss of this protection is there.

In *Gucci America, Inc. v. Guess?, Inc.*, 2011 U.S. Dist. LEXIS 15 (S.D.N.Y. 2011) the District Court overturned a federal magistrate judge's ruling that certain emails were not privileged because Gucci's in-house lawyer was not an active member of the bar. The court held that a lawyer on inactive status could still qualify as a "lawyer" for attorney-client privilege purposes, and that the company had no duty to verify the lawyer's active status. The decision did not address in-house counsel registration requirements, and it remains unclear whether courts would apply *Gucci* in those circumstances.

Conclusion

For in-house counsel, multi-jurisdictional practice is a routine feature of modern corporate legal work, especially in a remote and distributed workplace. Although Model Rule 5.5(d) was designed to provide a safe harbor for in-house lawyers, the practical reality is that state-by-state registration schemes, differing interpretations of "systematic and continuous presence," and evolving remote-work guidance can quickly turn routine counseling into unauthorized practice of law exposure. Those risks are compounded by the disciplinary reach of Rule 8.5 and the lingering uncertainty about how privilege arguments will fare if opposing parties challenge an in-house lawyer's authorization status. It is important to stay informed of the changes of the UPL provisions in each state where the company has attorneys living and practicing.