

Frequently Asked Questions - Unauthorized Practice of Law

What is the Unauthorized Practice of Law?

What constitutes the Unauthorized Practice of Law (UPL) is governed by state statute:

§ 73-3-55. Unlawful to practice law without license; certain abstract companies may certify titles

It shall be unlawful for any person to engage in the practice of law in this state who has not been licensed according to law. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished in accordance with the provisions of Section 97-23-43. Any person who shall for fee or reward or promise, directly or indirectly, write or dictate any paper or instrument of writing, to be filed in any cause or proceeding pending, or to be instituted in any court in this state, or give any counsel or advice therein, or who shall write or dictate any bill of sale, deed of conveyance, deed of trust, mortgage, contract, or last will and testament, or shall make or certify to any abstract of title to real estate other than his own or in which he may own an interest, shall be held to be engaged in the practice of law. This section shall not, however, prevent title or abstract of title guaranty companies incorporated under the laws of this state from making abstract or certifying titles to real estate where it acts through some person as agent, authorized under the laws of the State of Mississippi to practice law; nor shall this section prevent any abstract company chartered under the laws of the State of Mississippi with a paid-up capital of Fifty Thousand Dollars (\$50,000.00) or more from making or certifying to abstracts of title to real estate through the president, secretary or other principal officer of such company.

The courts ultimately decide what is the practice of law. See *In Re Williamson*, So. 2d (Miss. 2003); *Darby*, So. 2d (Miss. 1966) (complete cite)

In addition, Rule 5.5 of the Mississippi Rules of Professional Conduct states:

A lawyer shall not:

- (a) practice law in a jurisdiction where doing so violates the regulation of the legal professional in that jurisdiction; or
- (b) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

Who can practice law in Mississippi?

Members of The Mississippi Bar may practice law in Mississippi. To become a member of The Mississippi Bar, an applicant must meet the requirements of the Mississippi Board of Bar Admissions and be admitted to practice before the courts of this State. The Mississippi Board of Bar Admissions is responsible for reviewing the character and fitness of an applicant for the practice of law in Mississippi.

Additionally, a foreign attorney (attorney licensed in another jurisdiction) who complies with the Supreme Court of Mississippi's rules regarding admission to the practice of law for a limited purpose may practice law in Mississippi for that limited purpose.

What is the Unauthorized Practice of Law Committee?

The Unauthorized Practice of Law Committee is appointed by the President of The Mississippi Bar. There are nine volunteer members, who serve for three year staggered terms.

What does the Unauthorized Practice of Law Committee do?

The Unauthorized Practice of Law Committee is charged with investigating complaints against non-attorneys and foreign attorneys not properly admitted to practice in Mississippi who are accused of engaging in activity that constitutes the unauthorized practice of law. Upon completion of its investigation, the committee then determines whether such activity is in fact the unauthorized practice of law. If the Committee determines that an individual has engaged in the unauthorized practice of law, it will issue a cease and desist

letter. The Committee may also report their findings to the local county or district attorney for possible criminal prosecution.

The Unauthorized Practice of Law Committee cannot give advisory opinions about whether a certain activity constitutes the unauthorized practice of law.

How do I make a complaint to the Unauthorized Practice of Law Committee?

You can file a complaint by selecting “Complaint Form” in the previous menu to print and complete. Or you can obtain a complaint form by contacting the Consumer Assistance Program at (601) 948-2344 or by email at gwaddle@msbar.org.

If I suffer a loss as a result of the unauthorized practice of law, can the Unauthorized Practice of Law Committee get my money back?

The Unauthorized Practice of Law Committee is not charged with recovering money for persons who file a complaint. The Committee’s sole focus is to investigate allegations of the unauthorized practice of law and issue a cease and desist letter to halt such activity when warranted. Legal action against the accused party is one option to seek recovery (you will need to hire an attorney of your own choosing). You may also contact your local law enforcement authorities or the local county or district attorney to report the person for the unauthorized practice of law.