

**AMENDMENTS TO THE OHIO RULES OF PROFESSIONAL  
CONDUCT AND THE SUPREME COURT RULES FOR  
THE GOVERNMENT OF THE BAR OF OHIO**

The following amendments to the Ohio Rules of Professional Conduct (Prof. Cond. R. 5.5) and the Supreme Court Rules for the Government of the Bar of Ohio (Gov. Bar R. I, Section 19 and Gov. Bar R. XII, Section 2) were adopted by the Supreme Court of Ohio. The history of the amendments is as follows:

March 23, 2021	Publication for public comment
August 3, 2021	Final adoption by conference
September 1, 2021	Effective date of amendments

Key to Adopted Amendments:

1. Unaltered language appears in regular type. Example: text
2. Language that has been deleted appears in strikethrough. Example: ~~text~~
3. New language that has been added appears in underline. Example: text

## OHIO RULES OF PROFESSIONAL CONDUCT

### RULE 5.5: UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW; REMOTE PRACTICE OF LAW

[Existing language unaffected by the amendments is omitted to conserve space]

(d) A lawyer admitted and in good standing in another United States jurisdiction may provide legal services in this jurisdiction through an office or other systematic and continuous presence in any of the following circumstances:

(1) the lawyer is registered in compliance with Gov. Bar R. VI, Section 6 and is providing services to the employer or its organizational affiliates for which the permission of a *tribunal* to appear *pro hac vice* is not required;

(2) the lawyer is providing services that the lawyer is authorized to provide by federal or Ohio law;

(3) the lawyer is registered in compliance with and is providing pro bono legal services as permitted by Gov. Bar R. VI, Section 6;

(4) the lawyer is providing services that are authorized by the lawyer's licensing jurisdiction, provided the lawyer does not do any of the following:

(i) solicit business or accept clients for representation within this jurisdiction or appear before Ohio tribunals, except as otherwise authorized by rule or law;

(ii) state, imply, or hold himself or herself out as an Ohio lawyer or as being admitted to practice law in Ohio;

(iii) violate the provisions of Rules 5.4, 7.1, and 7.5.

(e) A lawyer who is practicing pursuant to division (d)(2) or (4) of this rule and the lawyer's law firm shall indicate the jurisdictional limitations of the lawyer. If any Ohio presence is indicated on any lawyer or law firm materials available for public view, such as the lawyer's letterhead, business cards, website, advertising materials, fee agreement, or office signage, the lawyer and the law firm should affirmatively state the lawyer is not admitted to practice law in Ohio. See also Rule 7.1 and 7.5.

#### Comment

[Existing language unaffected by the amendments is omitted to conserve space]

[4] Other than as authorized by law or this rule, a lawyer who is not admitted to practice generally in this jurisdiction violates division (b)(1) if the lawyer establishes an office or other

systematic and continuous presence in this jurisdiction for the practice of law of this jurisdiction. Presence may be systematic and continuous even if the lawyer is not physically present here. For example, advertising in media specifically targeted to Ohio residents or initiating contact with Ohio residents for solicitation purposes could be viewed as a systematic and continuous presence. Such a lawyer must not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. See also Rules 7.1 and 7.5(b).

[5] There are occasions in which a lawyer admitted to practice in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients, the public, or the courts. Division (c) identifies four such circumstances. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the exception of divisions (d)(1) ~~and (d)(2)~~ through (d)(4), this rule does not authorize a lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice generally here.

**[Existing language unaffected by the amendments is omitted to conserve space]**

[15] Division (d) identifies ~~three~~ four circumstances in which a lawyer who is admitted to practice in another United States jurisdiction and in good standing may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law as well as provide legal services on a temporary basis. Except as provided in divisions (d)(1) through (d)~~(3)~~(4), a lawyer who is admitted to practice law in another jurisdiction and who establishes an office or other systematic or continuous presence in this jurisdiction must become admitted to practice law generally in this jurisdiction.

[16] Lawyers practicing remotely in Ohio must determine whether additional safeguards are necessary to comply with their duties of confidentiality, competence, and supervision, including, without limitation, their use of technology to facilitate working remotely. These measures may include ensuring secure transmission of information to the lawyer's remote computer; procedures to securely store and back up confidential information; mitigation of an inadvertent disclosure of confidential information; and security of remote forms of communication to minimize risk of interference or breach.

**[Existing language unaffected by the amendments is omitted to conserve space]**

[22] Division (d)(4) allows an attorney admitted in another United States jurisdiction to practice the law of that jurisdiction while working remotely from Ohio. A lawyer practicing remotely will not be found to have engaged in the unauthorized practice of law in Ohio based solely on the lawyer's physical presence in Ohio, though the lawyer could through other conduct violate the rules governing the unauthorized practice of law. A lawyer practicing remotely in Ohio must continue to comply with the rules of the lawyer's home jurisdiction regarding client trust accounts, and any client property consisting of funds should be handled as if the lawyer were located in the lawyer's home jurisdiction.

## **Comparison to former Ohio Code of Professional Responsibility**

No change in Ohio law or ethics rules is intended by adoption of Rule 5.5.

Rule 5.5(a) is analogous to DR 3-101.

Rules 5.5(b), (c), and (d) describe when a lawyer who is not admitted in Ohio may engage in activities within the scope of the practice of law in this state. The Ohio Code of Professional Responsibility contains no provisions comparable to these proposed rules; rather, the boundaries of permitted activities in Ohio by a lawyer admitted elsewhere are currently reflected in case law and the Supreme Court Rules for the Government of the Bar of Ohio.

**[Existing language unaffected by the amendments is omitted to conserve space]**

## **Form of Citation, Effective Date, Application**

**[Existing language unaffected by the amendments is omitted to conserve space]**

(q) The Supreme Court of Ohio adopted amendments to Prof. Cond. Rule 5.5 and Comments [4], [5], [15], [16], and [22] of Prof. Cond. R. 5.5 effective September 1, 2021.

# SUPREME COURT RULES FOR THE GOVERNMENT OF THE BAR OF OHIO

## RULE I. ADMISSION TO THE PRACTICE OF LAW

[Existing language unaffected by the amendments is omitted to conserve space]

### Section 19. Practice Pending Admission during the Admission to the Practice of Law Process.

(A)(1) An applicant who has completed and filed with the Office of Bar Admissions one of the following applications for the admission to the practice of law may file with the Office an Application to Practice Pending Admission during the admission process pursuant to division (A)(4) of this section:

[Existing language unaffected by the amendments is omitted to conserve space]

(d) Submits within ninety days of providing Ohio legal services ~~in Ohio~~ a complete application for admission to practice law in accordance with this rule and on forms furnished by the Office of Bar Admissions. An applicant who submits a completed application after the ninety days may petition the Office of Bar Admissions to waive this provision for good cause;

(e) Reasonably expects to fulfill all of the requirements for admission to the practice of law pursuant to this rule;

(f) Associates with an active Ohio lawyer who is admitted to practice in Ohio, is in good standing, and has agreed to associate with the applicant, ~~unless the applicant files an affidavit on a form furnished by the Office of Bar Admissions affirming that during the application process the applicant will only practice the law of the jurisdiction in which the applicant is already admitted;~~

[Existing language unaffected by the amendments is omitted to conserve space]

(D) The authority of an applicant to practice law pursuant to this section shall terminate immediately upon the occurrence of any of the following:

(1) The time period authorized by division (A)(2) of this section has expired and no extension has been granted;

(2) The applicant withdraws the applicant's application for admission to the practice of law;

(3) The Application for Admission to the Practice of Law without Examination is disapproved, the Application to Transfer UBE Score is denied, or the applicant fails the Ohio bar examination;

(4) ~~If required pursuant to division (A)(2)(f) of this section, the~~ The applicant fails to remain associated with an active Ohio attorney in good standing pursuant to division (A)(2)(f) of this section.

[Effective: February 28, 1972; amended effective October 30, 1972; November 27, 1972; March 19, 1973; November 12, 1973; March 1, 1974; July 8, 1974; April 26, 1976; January 24, 1977; March 9, 1977; August 1, 1977; January 1, 1982; March 9, 1983; July 1, 1983; May 7, 1984; May 28, 1984; December 31, 1984; April 1, 1987; May 6, 1987; January 1, 1989; July 1, 1989; January 1, 1991; February 1, 1991; October 1, 1991; February 1, 1992; May 1, 1992; July 1, 1992; August 1, 1992; January 1, 1993; September 15, 1993; January 1, 1995; May 1, 1997; August 3, 1998; June 1, 2000; October 1, 2000; February 1, 2003; October 1, 2003; February 1, 2007; May 1, 2007; October 1, 2007; January 1, 2008; February 1, 2009; August 1, 2010; January 1, 2013; January 1, 2014; July 1, 2014; January 1, 2015; January 1, 2017; July 1, 2017; September 2, 2019; June 1, 2020; March 2, 2021; September 1, 2021.]

## **RULE XII. PRO HAC VICE ADMISSION**

**[Existing language unaffected by the amendments is omitted to conserve space]**

### **Section 2. Requirements for Permission to Appear Pro Hac Vice**

(A) A tribunal of this state may grant permission to appear pro hac vice to an attorney who is admitted to practice in the highest court of a state, commonwealth, territory, or possession of the United States or the District of Columbia, or who is admitted to practice in the courts of a foreign state and is in good standing to appear pro hac vice in a proceeding.

(1) An attorney is eligible to be granted permission to appear pro hac vice pursuant to this rule if any of the following apply:

- (a) The attorney neither resides in nor is regularly employed at an office in this state;
- (b) The attorney is registered for corporate status in this state pursuant to Gov. Bar R. VI, Section 3;
- (c) The attorney resides in this state but lawfully practices from offices in one or more other states, including lawful remote practice pursuant to Prof.Cond.R. 5.5(d)(4);
- (d) The attorney maintains an office or other systematic and continuous presence in this state pursuant to Prof.Cond.R. 5.5(d)(2) or (d)(4);
- (e) The attorney has permanently relocated to this state in the last 120 days and is currently an applicant pending admission under Gov. Bar R. I.

**[Existing language unaffected by the amendments is omitted to conserve space]**

[Effective: January 1, 2011; January 1, 2013; January 1, 2014; July 1, 2016; January 1, 2017; July 1, 2017; July 1, 2019, September 1, 2021.]

**RULE XX. TITLE AND EFFECTIVE DATES**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**Section 2. Effective Dates.**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**([Insert division letter]) The amendments to Gov. Bar R. X, Section 19 and Gov. Bar R. XII, Section 2, adopted by the Supreme Court on August 3, 2021, shall take effect on September 1, 2021.**