



# Dear Ethics Lawyer™

## The Legal Ethics Project. Supporting professionalism with information.

**Q:** Dear Ethics Lawyer,

With technology becoming more robust, I've gotten very comfortable with remote work, and clients do not seem to care where I am as long as I am responsive to them. We've recently purchased a vacation home in another state, and based on my experience, I'd like to spend substantial amounts of time working from that vacation home. I am not licensed to practice in that state, but I do not plan to open an office there or to seek or serve any clients in that state. All of the client relationships I currently serve are centered in states where I am licensed or I have appropriate local counsel. Is this plan viable?

**A:** ABA Formal Op. 495 (2020) opined as to circumstances in which it is appropriate for a lawyer to practice remotely from a state in which the lawyer is not licensed. The opinion is subject to any law of the particular state to the contrary (applying Model Rule 5.5), which you should check. In general, so long as the lawyer is "invisible as a lawyer" in the remote work state, then remote practice is not the unlicensed practice of law. This means that under Model Rule 5.5(b)(1), the lawyer's location in the local jurisdiction must be incidental and not for the practice of law, i.e., the lawyer cannot establish an office by holding out to the public a local contact address on letterhead, business cards, website, advertising, etc.

Similarly, under Model Rule 5.5(b)(2), the lawyer must not hold out or represent or imply that the lawyer is admitted to practice in the local jurisdiction, and must not provide services for matters subject to the local jurisdiction. The lawyer must limit the lawyer's practice to "the law authorized by the lawyer's licensing jurisdiction for clients of that jurisdiction" while physically located in the remote jurisdiction. Several state level bar opinions have adopted the rationale of the ABA Opinion. To be cautious, please review the law of the state where you will be working remotely, to make sure that it has adopted the modern version of Rule 5.5 discussed above, and that it does not have any current authority disagreeing with ABA Formal Op. 495.

***The Ethics Lawyer***

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## About Dear Ethics Lawyer

The twice-monthly "Dear Ethics Lawyer" column is part of a training regimen of the Legal Ethics Project, authored by [Mark Hinderks](#), former managing partner and counsel to an AmLaw 132 firm; Fellow, American College of Trial Lawyers; and speaker/author on professional responsibility for more than 25 years. Mark leads Stinson LLP's [Legal Ethics & Professional Responsibility](#) practice, offering advice and "second opinions" to lawyers and law firms, consulting and testifying expert service, training, mediation/arbitration and representation in malpractice litigation. The submission of questions for future columns is welcome: please send to [mark.hinderks@stinson.com](mailto:mark.hinderks@stinson.com).

Discussion presented here is based on the ABA Model Rules of Professional Conduct, but the Model Rules are adopted in different and amended versions, and interpreted in different ways in various places. Always check the rules and authorities applicable in your relevant jurisdiction – the result may be completely different.