

June 2009 *Multnomah Lawyer Ethics Focus*

On the Road Again: Practicing Across State Lines in the Northwest

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In late 2007, Oregon and Alaska began reciprocal admission. Oregon already had reciprocal admission with Washington and Idaho since 2002. This year, Alaska joined Oregon, Washington and Idaho in updating its professional rules to largely reflect the current ABA Model Rules. Although individual differences remain in each state, the similarities now far outweigh the distinctions. The updated professional rules also brought with them a significant expansion of temporary multijurisdictional practice (MJP) so that each state's MJP rule is now patterned on the national standard, ABA Model Rule 5.5. In short, lawyers in the Northwest today can practice across state lines in ways that simply did not exist even 10 years ago.

In this column, we'll briefly survey the changes in lawyer licensing and MJP in Washington, Idaho and Alaska. More on each and accompanying forms and admission instructions are available on their state bar web sites at, respectively, www.wsba.org, www.state.id.us/isb and www.alaskabar.org. Although federal court *pro hac vice* admission remains the province of each federal district, the Oregon district court's web site (www.ord.uscourts.gov) has links to the other districts throughout the Ninth Circuit. Moreover, because each of the federal districts in the Northwest uses its state professional rules to

regulate lawyer conduct, the closer alignment of those rules will benefit federal practitioners as well.

Washington

Washington uses a “mirror image” reciprocity rule (Admission to Practice Rule 18): it allows admission of out-of-state lawyers on substantially the same basis that an applicant’s “home state” allows admission of Washington lawyers. Therefore, the standards for Oregon lawyers to be admitted in Washington are, ironically, effectively governed by the Oregon admission requirements (see Oregon Admission Rule 15.05, available on the OSB’s web site at www.osbar.org). In brief, an Oregon lawyer seeking admission in Washington (based on the lawyer’s Oregon license) must: (1) have graduated from an ABA accredited law school; (2) have passed the bar exam in Oregon, Idaho, Alaska or Utah (Oregon’s other reciprocal jurisdiction); (3) be an active member of the Oregon State Bar; (4) have “actively practiced” (as defined by rule) for three of the four years immediately preceding the application; and (5) possess satisfactory “good character.” A reciprocal admission applicant must also complete specified CLE courses in Washington law.

Temporary practice in Washington, by contrast, is governed by RPC 5.5. Under Washington’s MJP rule, which is patterned on ABA Model Rule 5.5, temporary practice is authorized in Washington for lawyers who: (1) associate with a Washington attorney on a particular matter; (2) are appearing *pro hac vice*

in a Washington court proceeding or who are temporarily in Washington for a deposition or the like arising out of a “home state” case; (3) are temporarily in Washington for an arbitration or mediation relating to a “home state” matter; and (4) are temporarily in Washington handling a business transaction or other non-litigation matter for a “home state” client. Washington’s MJP rule also allows practice by out-of-state in-house counsel and lawyers who are authorized by federal law to practice in federal proceedings regardless of Washington licensure. Under Washington RPC 8.5(a), lawyers who practice under its MJP rule are also subject to its regulatory jurisdiction.

Idaho

Idaho, too, uses a “mirror image” reciprocity rule (Idaho Bar Commission Rule 204A). Therefore, its standards for Oregon applicants are similar to Washington except that a reciprocal admission applicant must have practiced for three of the past five years immediately preceding the application. Again like Washington, Idaho also requires a reciprocal admission applicant to complete specific CLE courses in Idaho law.

Although structured somewhat differently than the corresponding ABA Model Rule, Idaho RPC 5.5 generally permits the same categories of temporary practice as those just catalogued for Washington. Idaho’s MJP rule also allows practice by out-of-state in-house counsel (although Idaho Bar Commission Rule 220 also requires in-house counsel registration) and where federal law preempts

state licensing. Under Idaho RPC 8.5(a), lawyers who practice there under its MJP rule are also subject to its regulatory jurisdiction.

Alaska

Alaska also uses a “mirror image” reciprocity rule (Alaska Bar Rule 2). Therefore, its standards for Oregon applicants are similar to Washington and Idaho except that a reciprocal admission applicant must have practiced for five of the past seven years immediately preceding the application. Again like Washington and Idaho, Alaska also requires a reciprocal admission applicant to complete specific CLE courses in Alaska law.

Alaska RPC 5.5 closely parallels its ABA Model Rule counterpart and generally permits the same categories of temporary practice as those outlined for Washington and Idaho. Alaska’s MJP rule also allows practice by out-of-state in-house counsel and where federal law preempts state licensing. Alaska RPC 8.5(a) also imposes regulatory jurisdiction on lawyers who use its MJP rule.

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