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Heading South: Oregon Allows Temporary Practice Pending Reciprocal Admission

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Oregon recently addressed a very practical problem confronting lawyers who are relocating there: can they practice while their reciprocal admission applications are pending? The Oregon Supreme Court in *In re Harris*, 366 Or. 475, ___ P.3d ___ (2020), answered “yes”—as long as the lawyer fits within one of the “safe harbors” authorizing temporary practice under Oregon’s version of ABA Model Rule 5.5.

Reciprocal admission is a great tool for lawyers who are moving from one state to another. At the same time, admission is not immediate. In Oregon, for example, even straightforward applications can take a several months to process. That can leave experienced lawyers admitted elsewhere who have physically relocated with an awkward gap. The lawyer in *Harris*, for example, had relocated to Oregon to become general counsel of a local school district. While his reciprocal admission application was pending, an unrelated bar complaint was filed against him. That was dismissed, but the Oregon State Bar instead prosecuted him for violating Oregon RPC 5.5(b)(1), which, like its ABA Model Rule counterpart, prohibits a lawyer from establishing a “systematic and continuous presence” without being licensed. The lawyer countered that he qualified under Oregon’s “safe harbor” for temporary in-house practice under

RPC 5.5(c)(5) (which is similar to Washington RPC 5.5(d)(1)) during this interim period.

The Oregon Supreme Court agreed with the lawyer and dismissed the complaint. It found that as long as a lawyer qualified for one of the temporary “safe harbors” found in RPC 5.5(c), the lawyer’s practice was authorized while a reciprocal admission application is pending. Although the lawyer in *Harris* was an in-house counsel, lawyers relocating to join a law firm should ordinarily be able to rely on RPC 5.5(c)(1)—which allows an out-of-state lawyer to temporarily practice in Oregon when doing so in association with an Oregon-licensed lawyer.

In 2012, the ABA adopted a model rule on practice pending admission. But, it has not been widely implemented nationally. Given the increased mobility of lawyers today, *Harris* is a practical solution to a practical problem.

ABOUT THE AUTHOR

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