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Committee on Unauthorized Practice of Law - FAQ

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Q. What is the "practice of law" in Arkansas?

A. There is not a precise definition of the practice of law. In a series of cases, the Arkansas Supreme Court has made these rulings as to what constitutes the practice of law:

- When a person appears before a court of record for the purpose of transacting business with the court in connection with pending litigation or when a person seeks to invoke the processes of the court in any matter pending before it, the person is engaging in the practice of law.
- The practice of law includes any services of a legal nature rendered outside of courts and unrelated to matters pending in the courts, including conveyancing, the preparation of legal instruments of all kinds, and, in general, all advice to clients and all action taken for them in matters connected with the law.

Q. Who may practice law in Arkansas?

A. Only a lawyer admitted to practice in Arkansas is allowed to practice law in this state. A lawyer can be admitted to practice either by obtaining an Arkansas law license or by being admitted to practice *pro hac vice*. See Rule 5.5 of the Arkansas Rules of Professional Conduct. An exception to this rule is found in Arkansas Supreme Court Administrative Order No. 15, which allows attorneys not licensed in Arkansas to provide *pro bono* services under the auspices of a sponsoring entity approved as a legal aid provider.

Q. Who may *not* practice law in Arkansas?

A. Many people think that persons who engage in certain professions are authorized to practice law, at least regarding limited issues; however, that is not the case. Some examples:

Paralegals

Paralegals may not practice law. Paralegals may only act under the direction and supervision of a licensed attorney.

Law Students

Generally, the answer is “no”. However, some law students may be permitted to represent persons in compliance with Rule XV of the Arkansas Supreme Court Rules Governing Admission to the Bar. *See also* Rule 46B of the Rules of the Eighth Circuit Court of Appeals. This exception requires that the student be sponsored and supervised by a licensed attorney.

Suspended or Disbarred Lawyers

Suspended and disbarred lawyers may not practice law and have other restrictions on their ability to perform certain tasks related to the practice of law. *See* Rule 22 of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law.

Real estate brokers, title insurers, abstractors and bankers

When a person has declined to engage a lawyer, a real estate broker may fill in the blanks of simple printed standardized real estate forms that have been approved by a lawyer. The forms may not be used for other than simple real estate transactions and may only be used with real estate transactions actually handled by the brokers and without charge for the simple service of filling in the blanks.

The rules that apply to real estate brokers also apply to title insurers and abstractors.

While no Arkansas case has expressly addressed the practices of banks in filling in the blanks of forms approved by attorneys, it is generally understood that the rules applicable to real estate brokers apply to banks and mortgage companies.

Notaries

Notaries are limited to the taking of acknowledgments. They may not prepare legal documents for a fee.

"Notarios" or immigration consultants are not permitted to provide legal advice in immigration matters. Only licensed attorneys and accredited representatives recognized the United States Board of Immigration Appeals may provide legal advice concerning immigration issues.

Q. Can out-of-state lawyers practice law in Arkansas?

A. Out-of-state lawyers may only practice in Arkansas if they receive an Arkansas license or are admitted *pro hac vice*. See Rule 5.5 of the Arkansas Rules of Professional Conduct. Out-of-state lawyers desiring to provide pro bono legal services may be allowed to practice in Arkansas in compliance with Arkansas Supreme Court Administrative Order No. 15.

Q. May I represent myself in a court proceeding?

A. Yes. An individual is entitled to represent himself or herself in a court proceeding. However, the individual cannot represent other individuals or corporations or other legal entities (i.e. LLCs), even if you are the sole owner, in the proceeding.

Q. If I represent myself, are there forms I can use for my case?

A. Yes. Go to [\(link\)](#) to access free legal forms. These forms use a question and answer format to populate the form with necessary information for simple legal matters and generate a document based on the information you provide. Each form has additional instructions that you should read carefully and follow.

Q. May I represent a family member in a court proceeding?

A. No. While a non-lawyer may be allowed to represent a family member in certain administrative proceedings, the non-lawyer cannot represent the family member in a court proceeding, including the appeal of an administrative proceeding to a court of law.

Q. May I file petitions for guardianship or petitions to probate wills and appear in court as the guardian of another person or the executor of a probate estate?

A. Some courts permit a non-lawyer to file a petition for guardianship but others may not. This issue has not been finally decided by the Arkansas Supreme Court. See *In re Pro Se Filings in Estates and Guardianships in the*

Washington County Circuit Court, 2015 Ark. 419.

In *Ark. Bar Assoc. v. Union Nat'l Bank*, 224 Ark. 48, 51-52, 273 S.W. 2d 408, 410 (1954), the Arkansas Supreme Court held that "a person who is not a licensed attorney and who is acting as an administrator, executor or guardian cannot practice law in matters relating to his trusteeship on theory that he is practicing for himself."

Once a non-lawyer is appointed as a guardian or executor, a court may allow the person to appear in court and file legal documents such as inventories and accountings, but the individual should consult with the judge assigned to the case to determine if there are specific rules in that particular court as to what is considered permissible and what is considered the unauthorized practice of law.

Q. May a non-lawyer represent me in proceedings that are not pending in court?

A. Yes. There are certain administrative proceedings, such as the Workers Compensation Commission or the Arkansas Employment Security Department, in which a non-lawyer can appear and represent a party to the proceeding. Check the rules of the administrative body to see if a lawyer is required or if there are other requirements for non-lawyers to appear. However, a non-lawyer may not represent you or any other person or legal entity in an appeal from the administrative decision to a court. Only a lawyer can represent an individual or legal entity in an appeal of an administrative decision to a court. Any appeal filings in the court will be ruled to be a nullity and of no legal force or effect if filed by a non-lawyer.

Q. Can I represent a corporation or other legal entity in a court proceeding?

A. No. A corporation or other legal entity must be represented by an attorney in a court proceeding. Any action taken by a non-lawyer on behalf of a corporation or other legal entity in a court proceeding is considered a nullity and of no legal force or effect. This is true even if a non-lawyer is allowed to represent the legal entity in an administrative proceeding but then the non-lawyer appeals to a court. A licensed lawyer is required for the appeal.

Q. If I cannot afford a lawyer, can I receive help from a lawyer for free or at a reduced cost?

A. Yes. Go to www.arlegalservices.org to see if you qualify for free legal aid. Arkansas also allows an attorney to provide "unbundled" legal services for limited legal advice or legal services. Regardless of whether you qualify for free or discounted legal services, you can find answers to routine legal questions at <https://ar.freelegalanswers.org>.

Q. What is the purpose of having rules that regulate the practice of law?

A. The rules regulating the practice of law are for the protection of the public. In order to meet the public interest, lawyers have high standards of training and competence, and they practice under a strict code of ethics. Persons who are not licensed to practice law in Arkansas do not have the same requirements, and the public is not assured that the advice given by non-lawyers complies with Arkansas law or is free of unethical considerations.

Q. Who regulates the practice of law in Arkansas?

A. The Arkansas Supreme Court has exclusive authority to regulate the practice of law.

Q. Who regulates the "unauthorized practice of law" in Arkansas?

A. Although the Arkansas Supreme Court retains jurisdiction to address issues relating to the unauthorized practice of law, the court established the Supreme Court Committee on the Unauthorized Practice of Law to investigate claims of the unauthorized practice of law. The committee also has limited enforcement powers.

Go to <https://rules.arcourts.gov/w/ark/rules-of-court-creating-committee-on-the-unauthorized-practice-of-law> to access the rules of the committee.

Q. How do I file a complaint against someone who is engaged in the unauthorized practice of law?

A. You can download a complaint form at <https://www.arcourts.gov/sites/default/files/AR%20UPL%20Complaint%20Form%20%28FILLABLE%29%2009-22-16.pdf> and submit it to the Arkansas Supreme Court Committee on the Unauthorized Practice of Law. If you do not have access to a computer to download the form, please call 501-376-0313 to obtain a complaint form and other information. A complaint will not be processed until the completed complaint form has been submitted.

Q. What will happen if I file a complaint?

A. The UPL Committee staff will review the complaint to determine whether it is a matter within the jurisdiction of the committee. [If the complaint is not within the jurisdiction of the committee but is within the jurisdiction of some other body, you will be notified of the body that can address the complaint.] If the complaint is within the committee's jurisdiction, you will receive an acknowledgment of the complaint and a brief explanation of how the complaint will be processed. The staff will then conduct a brief review of available information and provide the complaint to the committee for its members to vote whether to open an investigation. If the committee votes to open an investigation, the staff will then begin to investigate the matters alleged in the complaint and provide that information to the committee. In addition, the complaint will be sent to the person who is the subject of the

complaint, asking for a response. Upon review of the results of the investigation, the committee will then vote on the appropriate action to be taken, which may range from a finding of no violation to the filing of a complaint in court to enjoin the person from engaging in the unauthorized practice of law. You will be advised of the committee’s decision promptly.

Q. How can I learn if a person has been found to have engaged in the unauthorized practice of law?

A. You may access the list of reported decisions at <https://www.arcourts.gov/administration/boards-committees/committee-unauthorized-practice-law/index-of-actions-on-complaints> or you may call 501-376-0313.

 **FAQ - Marshallese**

223.43 KB

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