

KENTUCKY BAR ASSOCIATION
Unauthorized Practice of Law Opinion KBA U-45
Issued: June 1992

Question 1: Does Kentucky recognize the concept of a “free-standing” paralegal service in which a paralegal provides legal services directly to members of the public?

Answer 1: No. A paralegal's work must be supervised by a licensed attorney.

Question 2: May a paralegal, or any other non-lawyer, including a disbarred or suspended lawyer or a lawyer who has surrendered his or her license, provide services to the public by selecting and completing forms for filing in court?

Answer 2: No.

References: SCR 3.020, SCR 3.700; KBA U-38, KBA U-37, KBA U-14, KBA U-II, KBA U-8, KBA U-7; KBA E-256 and KBA-255; Lester v. KBA, 532 S.W.2d 425 (Ky 1976). C. Wolfram, Modern Legal Ethics (1986).

OPINION

SCR 3.020 (Practice of law defined) provides that:

The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services..... (Emphasis added)

SCR 3.700 clearly describes a paralegal as a person whose work is “under the supervision and direction of a licensed lawyer,” whose conduct is not unauthorized practice only because his or her work is “supervised” by a lawyer. SCR 3.700 Preliminary Statement and Sub-Rule 2. Kentucky law does not authorize the delivery of direct, “free-standing,” or unsupervised paralegal services to members of the public. A paralegal may provide services to a lawyer or lawyers (or through lawyers) as an employee or independent contractor, but may not provide such services directly to the public without the supervision required by Rule 3.700. Compare KBA U-14 (1976).

Except in instances in which federal law (statute, agency rule or regulation, or court decision or standing order), or a state rule (see SCR 3.700 Sub-Rule 3) is to the contrary, the selection and filling out of forms for legal proceedings (divorce, probate, and the like) by a paralegal who is not supervised by a lawyer in the particular matter, or by a suspended lawyer, or by any other unlicensed person, is the unauthorized practice of law and is prohibited. See generally C. Wolfram, Modern Legal Ethics 839-840 (1986) and cases cited therein. See also KBA U-38, KBA U-37 and KBA U-11, KBA U-8 and KBA U-7.

We also note that a disbarred or suspended lawyer, or a lawyer who has surrendered his or her license in lieu of discipline, is bound by the limitations of KBA E-255 and KBA E-256 regarding unauthorized practice of law. See also Lester v. KBA 532 S.W.2d 435 (Ky. 1976).

Note to Reader

This unauthorized practice opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides in part: "Both informal and formal opinions shall be advisory only."