

2 important issues for  
paralegals today  
licensing and  
unauthorized practice  
of law...



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Presentation The unauthorized practice of law is regarded in many states as the practicing of the law by an unlicensed person, or generating a notion in the public through advertisement that he/she is able to offer services on law related matters, that only a licensed attorney is allowed to offer. Such a person is usually untrained and is likely to jeopardize the interests of unsuspecting clients, and offering such services is considered to be illegal. The unauthorized lawyers offer incompetent services in weighty legal matters, which makes states prohibit the practice, unless if a person is representing him/herself. For example in some states, it is regarded as a felony which can lead to a sentence of a minimum of five years, or a fine of not less than five thousand dollars, regardless of whether the unauthorized person had permission from court (Susan 2007 p 158). However, other states grant permission to unlicensed people to offer certain services such as selling legal forms, and providing common instructions and other services whereby the interest of clients may not be put at stake. They are preferred by clients because they charge lower prices than the attorneys.

Blades and Vermeylen (2004 p 642) observe that information technology has brought drastic changes in the legal profession. People are able to access critical information regarding legal issues from the internet. This has been a major improvement in enlightening the public regarding their legal rights. However, people are exposed to the wrong information generated by the unauthorized practicing lawyers that can jeopardize their rights. This is because both the authorized and unauthorized lawyers can post unlimited information on websites. The most risky part is where a client completes a deal in the website, where there is no interaction between the lawyer and the client. Such passive websites may be used by laymen and may not offer

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the correct information regarding legal matters, a problem that has recently raised concerns in many states (Tony 2004 p 227). However, secure methods such as the use of cautiously developed disclaimers are in use by lawyers in order to separate between the unauthorized practices of law from the licensed lawyers.

The use of measures for identification through the use of disclaimers have been significant in ensuring that only the authorized lawyers serve clients, but without any deals being completed in the website. They only provide general information, making it less attractive to people in the unauthorized practice of law (Blades and Vermynen 2004 p 644). In many states, courts have moved in to establish important parameters that are significant in the determination of cases of unauthorized practice of law. One of these parameters is to ascertain that the service offered is within the practice of law according to the understanding of the courts. Secondly, it has to be understood whether the service needs to be offered by an expert in legal matters, and whether the service rendered is beyond the knowledge of a lay man, and thirdly, the impact of the service on the person to whom they were offered. These parameters are important in assessing whether there is unauthorized practice in offering legal services, after which the prosecutions and injunctions can be carried out against the offenders.

In my opinion, the main problem when it comes to the unauthorized practice is when legal advice is offered instead of general advice concerning legal issues. For example, Paralegals may offer services to a certain extent especially concerning general information, such as advice to clients regarding whether they are likely to win their case. But under no

circumstances should advice concerning individual rights and responsibilities  
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in regard to the existing law and legal standards be obtained from them. They are not supposed to offer an opinion on legal matters regarding the facts about a particular situation. There is a particular threshold they should not cross. Actions beyond such a point may lead to consideration as unauthorized practice that is punishable by the law.

#### References

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