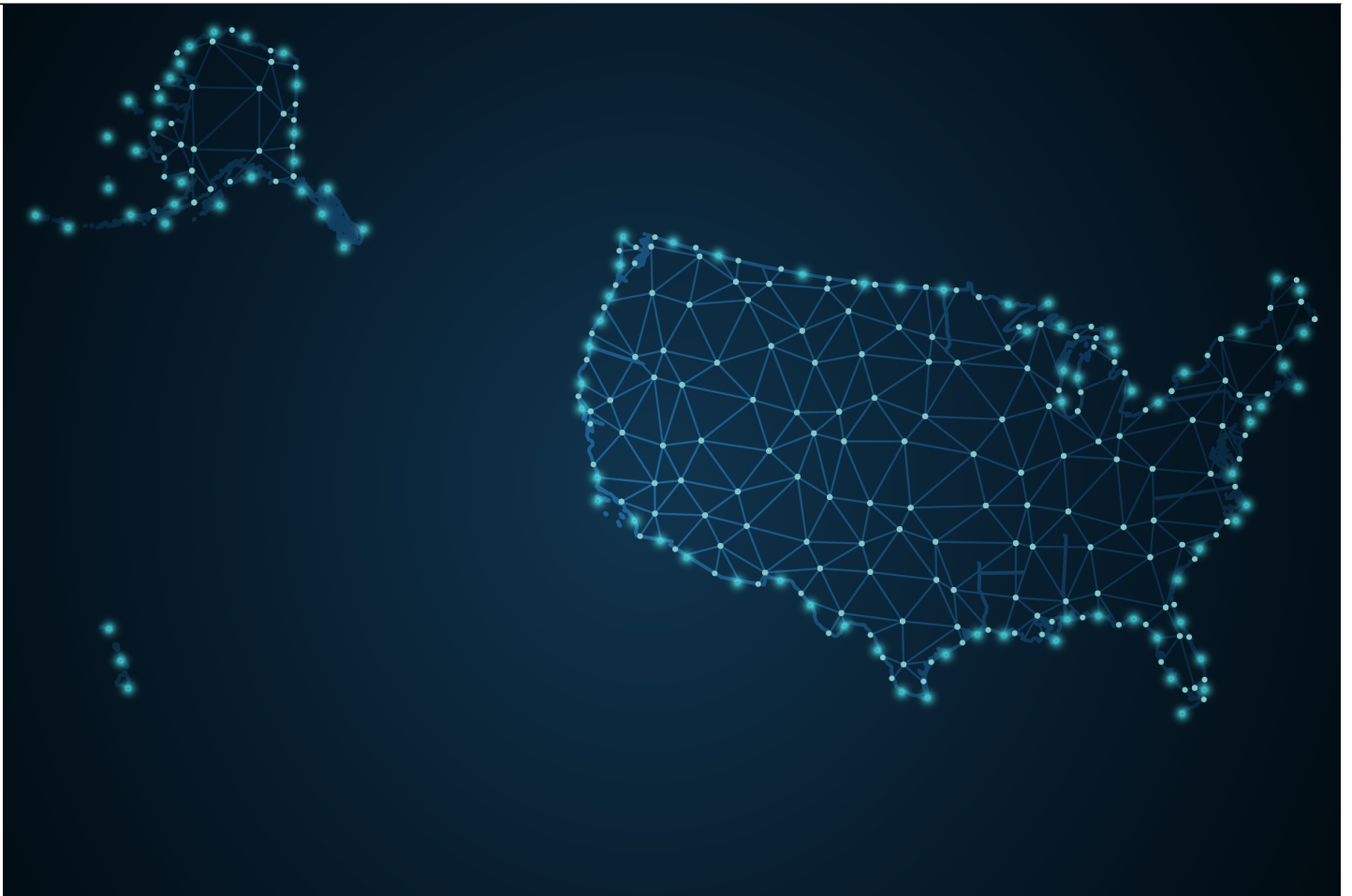




The New Geography of Multi-jurisdictional Practice: Navigating Licensing and Remote Work Rules

Compliance and Ethics



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You're licensed in New York but take a risk and move to Chicago for an exciting new opportunity. Only problem? You're not licensed in Illinois.

The opportunities available today for in-house counsel to move around have never been greater. But they have also brought complexity in navigating practice and licensing requirements. Here is what in-house counsel should know about the current state of multi-jurisdictional practice and remote work.

Full-time multi-jurisdictional practice

Most states will allow attorneys licensed elsewhere to practice within their jurisdiction when they are working in-house for a corporation.

The American Bar Association (ABA) has given the green light to this practice in **Model Rule 5.5(d)(1)**. The rule generally will allow the newcomer licensed attorney to provide legal services without taking the local bar so long as the lawyer is working for the corporation itself and not its employees and officers in a personal capacity, and their work does not require pro hac vice admission (e.g., litigation).

But there are still a few catches for the unwary transplant. Most states will require some form of

registration with their bar or courts. A few may even have further conditions, such as residency requirements and automatic terminations of your practice license after a prolonged absence.

States monitor and enforce registration status, so our lucky new hire in Chicago will want to make sure to stay up to date. Check out ACC's [Practicing in a Different State tracker](#) for more information.

Temporary multi-jurisdictional practice

Similarly, the business may take in-house counsel outside of Chicago to work travel all around the country. Think of responsibilities like meetings, real estate inspections, or taking depositions. Rack up your frequent flyer miles with confidence.

As long as your work is temporary and reasonably related to your work in the jurisdiction in which you are licensed, **Model Rules 5.5(c)(1)-(4)** will allow you to practice without being licensed in the state you visit.

The remote work landscape

In the aftermath of the COVID-19 pandemic, working from home has become easier than ever for in-house counsel. However, when it comes to working remotely from a state where you are not licensed, things are not so simple.

While the ABA blessed remote work through **Opinion 495**, adoption by states remains mixed.

- **States that officially allow remote work by attorneys licensed elsewhere through amendments to their rules** (as long as the work is tied to their home jurisdiction): Colorado, Connecticut, Florida, Hawaii, Massachusetts, New Hampshire, New York, Rhode Island, South Carolina, and Utah.
- **States that give the thumbs up through advisory opinions**: Georgia, Kentucky, Maine, New Jersey, Oregon, Pennsylvania, Vermont, Virginia, Washington, and Wisconsin.
- **States that are... kind of in the middle**: Delaware, Illinois, and New Mexico support their own attorneys working remotely from out-of-state but haven't clearly said whether the reverse is okay.
- **States that are still silent**: Arkansas, Alabama, Alaska, Arizona, California, Minnesota, Mississippi, Nebraska, and Nevada. (Although the San Francisco Bar Association has said remote work from there probably isn't unauthorized practice.)
- **And then there's Missouri**, which seems to take the hardest line yet. According to Missouri Opinion 2024-03, if you're not licensed or registered there, you're not allowed to practice even if everything you do is tied to your licensed state.

A closer reading of the text

Even though states may allow remote work by licensed attorneys unlicensed in their jurisdiction, the rules can be nuanced.

One common stipulation is that the lawyer must **not hold themselves out** as being a lawyer in that jurisdiction, nor establish a **systematic** and **continuous** presence within the state. What this means, like much of the law, is subject to interpretation. Examples may include establishing an office,

advertising, or adding the jurisdiction onto e-mail signatures or business cards (think of a business card with your new home address in it).

Thus, opportunities may exist for the unlicensed attorney to inadvertently violate their remote work authorization. The bottom line: always check the fine print and keep an eye out for statutory language, opinions and disciplinary actions in that state to keep up with trends and make sure you are up to date.

Other requirements to keep in mind

In-house counsel working remotely must make sure that their work continues to comply with all ethical obligations, such as:

Competence (Rule 1.1) requires an attorney to provide competent representation to their clients. This includes being competent in **technology**. Want to spend the summer working from Mackinac Island? Make sure your Wi-Fi connection is secure, and you might want to consider a system of software and servers that limits your tech footprint to the state you are licensed in. The practice of law involves lifelong learning. Make sure to stay up to date with the latest developments in cybersecurity and software offerings that protect your employer's privacy.

Confidentiality (Rule 1.6) requires a lawyer not to reveal **confidential information** and to make reasonable efforts to prevent inadvertent disclosures. If you are working from home, don't let your kids or partner overhear a work call — that could be your one-way ticket to a privilege waiver. Similarly, be mindful of working from a coffee shop, hotel lobby, or airport lounge; being overheard or overlooked there might spell disaster for your trip. Attorneys must configure their communication systems to meet cybersecurity requirements and prevent disclosures. Don't let a fellow traveler crash your Zoom meeting and be aware that the privileged status of AI notetakers is uncertain.

Temporary and full-time remote work from another jurisdiction may also result in accruing **tax liability** in that state. Check with the local authority and your finance or HR teams to avoid any surprises.

Remote work isn't going anywhere, and for in-house counsel that can be a very good thing. But with greater flexibility comes more complexity. ACC is your resource to make sure you stay in the loop with all your professional requirements.

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references for the busy in-house practitioner and other readers.

[Pablo Urioste](#)



Legal Intern

Association of Corporate Counsel

[Pablo Urioste](#) is a J.D. candidate at the American University Washington College of Law and a Junior Staffer on the Business Law Review. As an ACC National Capital Region 2025 Corporate Scholar, he has spent the summer as a legal intern at the Association of Corporate Counsel.

Amy Chai



Associate General Counsel and Director, Advocacy Initiatives

Association of Corporate Counsel

Amy Chai serves as associate general counsel and director of advocacy initiatives at ACC. In this role, she

oversees ACC's global advocacy efforts on issues of concern to the in-house legal profession, such as legal professional privilege and multi-jurisdictional practice. Prior to ACC, Chai held advocacy roles at the National Association of Home Builders and the US Chamber of Commerce.