



October 15, 2026

Via Electronic Submission

Nevada Supreme Court  
Elizabeth A. Brown  
Clerk of the Supreme Court  
201 South Carson Street  
Carson City, Nevada 89701  
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Re: ADKT-0633: In the Matter of Addition of Supreme Court  
Rule 42.2 and Amendment to Nevada Rule of Professional Conduct 5.5

Dear Justices of the Nevada Supreme Court:

I write to support the Nevada Bar's Petition to amend existing Nevada Rule of Professional Conduct ("NRPC") 5.5 regarding the unauthorized practice of law ("UPL") in the context of out-of-state attorneys remotely working within this state (the "Petition").

I write to you in my personal capacity and not on behalf of any organization or client.<sup>1</sup> The views and opinions expressed in this letter are my own. Thank you for the opportunity to comment and to provide my views.

You should know that I have studied issues related to professional ethics for some time.<sup>2</sup> I previously served both as Chair and as a member of the Executive Committee for the Section on Professional Responsibility within the American Association of Law Schools. I have taught courses on professional responsibility at multiple law schools and regularly present on legal ethics.

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<sup>1</sup> I also serve as Associate Dean for Faculty Research and Development at the William S. Boyd School of Law at the University of Nevada, Las Vegas and as Senior Of Counsel at the law firm of Wilson Sonsini Goodrich & Rosati. This letter is in my personal capacity. Thank you to Amanda Vaskov for research assistance to prepare this letter.

<sup>2</sup> See Benjamin P. Edwards, *The Dark Side of Self-Regulation*, 85 U. CIN. L. REV. 573 (2017) (discussing professional self-regulation in the context of financial intermediaries); Benjamin P. Edwards, *The Professional Prospectus: A Call for Effective Professional Disclosure*, 74 WASH. & LEE L. REV. 1457, 1490 (2017) (discussing professional disclosures).

## 1. The Petition Provides Important Clarity for Attorneys.

As remote legal practice becomes more common, the Petition offers clarity about possible criminal liability. At present, Nevada's UPL statute criminalizes practicing law *in the state* without authorization. But what it means to practice law in the state of Nevada warrants clarification to exclude conduct unrelated to Nevada's real interest in prohibiting UPL.

Clear rules provide fair notice of attorney's professional obligations. The American Bar Association's Model Rules of Professional Conduct (the "MRPC") recognize that compliance depends on attorneys understanding their ethical duties.<sup>3</sup> As the Petition explains, many other states have already amended their rules to clarify that state UPL statutes do not aim to capture remote practice.<sup>4</sup>

## 2. Nevada Lacks a Meaningful Interest in Proscribing Remote Practice.

Although UPL statutes serve important goals to protect the public, Nevada has little interest in preventing remote practice from within Nevada and much to gain from allowing attorneys to practice remotely from within the state. A New York licensed attorney, remotely practicing New York law for a New York client from a Nevada residence poses no significant risk to Nevada's interests. When an attorney represents clients in another jurisdiction under that jurisdiction's laws, Nevada has little reason to criminalize the attorney's work simply because the attorney practices remotely from Nevada.<sup>5</sup>

Attorneys also occupy other roles in our society. Many may need to move to support the careers and ambitions of their spouses. Consider the issue from the hypothetical perspective of a New York attorney married to a doctor seeking to treat patients in Nevada. Remote practice for the attorney may allow the attorney to relocate to Nevada alongside his or her spouse without surrendering a practice in another state. A perceived need to obtain a Nevada license for fear of criminal liability for remote practice may do more harm than good.

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<sup>3</sup> Model Rules of Pro. Conduct scope ¶ 16 (Am. Bar Ass'n 2026).

<sup>4</sup> See Petition, Ex G (detailing other states with explicit ethics rules and opinions).

<sup>5</sup> Legal scholars have argued that a state's interest in regulating legal practice depends in part on where the attorney's work affects clients and legal proceedings. See Michael W. Loudenslager, *E-Lawyering, the ABA's Current Choice of Ethics Law Rule & the Dormant Commerce Clause Invalidates Model Rule 8.5(b)(2) When Applied to Attorney Internet Representations of Clients*, 15 WM. & MARY BILL RTS. J. 587, 643–49 (2006); Cynthia L. Fountaine, *Have License, Will Travel: An Analysis of the New ABA Multijurisdictional Practice Rules*, 81 WASH. U. L.Q. 737, 737–38 (2003).

In contrast, Nevada has a real stake in regulating conduct that affects Nevadans or involves the resolution of disputes before Nevada tribunals. For example, NRPC 5.5 does not appear to authorize attorneys without Nevada licenses to represent clients in private arbitrations from within Nevada and under Nevada law.<sup>6</sup> To my knowledge, Nevada has not yet provided clarity on private arbitration practice or adopted the current model rule for arbitration practice. Some now contend that Nevada does not allow attorneys licensed in other states to represent clients in Nevada arbitrations.<sup>7</sup> Although reasonable minds differ on this approach, Nevada has stronger a institutional interest to oversee arbitration practice within Nevada and involving issues of Nevada law than for remote practice.

### 3. The Petition Provides Adequate Safeguards.

The Petition provides a clear safe harbor to provide clarity for attorneys engaged in remote practice and to protect Nevadans from UPL. To shelter within the Petition's proposed changes, an attorney engaged in remote practice from within Nevada must not (1) establish a public-facing office in Nevada, (2) solicit Nevada clients, or (3) hold themselves out as authorized to practice law in Nevada.<sup>8</sup> These requirements permit reasonable remote practice without risking that Nevada residents will mistakenly seek legal advice from an attorney without a Nevada law license.

I thank you again for the opportunity to comment on the Petition. I strongly support its adoption because it offers clear guidance for remote practitioners.

Sincerely,



Benjamin P. Edwards

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<sup>6</sup> In contrast, the American Bar Association's MRPC provides an exception for multi-jurisdictional arbitration practice in MRPC 5.5(c)(3).

<sup>7</sup> For example, one Nevada attorney contends that an "[o]nly an active, licensed Nevada attorney is able to represent investors in court or in a FINRA arbitration. Attorneys not licensed in Nevada must be admitted pro hac vice and approved by the Nevada State Bar, or else they will be engaging in the unauthorized practice of law." *The Nevada Securities Laws*, L. Off. of David Liebrader, <https://www.investmentloss.com/nevada-investors/the-nevada-securities-laws/> (last visited Oct. 12, 2026).

<sup>8</sup> Proposed SCR 42.2.