

**REQUIREMENTS FOR PRACTICING LAW IN
LOUISIANA BY OUT-OF-STATE ATTORNEYS**

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I.

LICENSURE IN LOUISIANA

Since Louisiana does not provide reciprocity for out-of-state attorneys, there are only two ways that out-of-state attorneys can practice in Louisiana. LA. SUP. CT. R. XVII § 11. Out-of-state attorneys must either seek admission to the Louisiana Bar or through *pro hac vice* admission. The Louisiana Supreme Court (“the Court”) has promulgated rules governing the admission of attorneys into the Louisiana State Bar and *pro hac vice* admission (“the Rules”). See LA. SUP. CT. R. XVII.

A. Admission to the Louisiana Bar

Pursuant to the Rules, “the Court’s constitutional authority to regulate the admission of qualified applicants to the Bar [of Louisiana] shall be administered by the Committee on Bar Admissions of the Supreme Court of Louisiana.” *Id.* at § 1.

1. Requirements and Applying for Admission in Louisiana State Courts

If the out-of-state attorney elects to seek admission to the Louisiana Bar, allowing him/her to *permanently* practice law in Louisiana, then he/she must meet the following criteria:

- a) have reached the age of 18 years as of the date of admission;
- b) be a citizen of the United States or an alien lawfully admitted for permanent residence, or an alien otherwise authorized to work lawfully in the U.S.;
- c) have demonstrated sound mind, good moral character and fitness to practice law;
- d) be a graduate of a law school located in the U.S. or its territories that is accredited by the American Bar Association as of the date

on which a juris doctorate or its equivalent is conferred on the applicant;¹

- e) have submitted a written certification of graduation and fitness by the dean or chancellor of the law school from which the applicant graduated;
- f) satisfactorily complete the written bar examination; and
- g) submit an application for admission to the Bar, request the preparation of a character report in accordance with Section 4 of this Rule, and pay the applicable fees.

Id. at § 3.

Similar to most jurisdictions, the Louisiana Bar Exam is offered in February and July each year with the following deadlines for applying:

Bar Examination	Regular Deadline (no late fee)	Final Deadline (late fee payable)
February	November 1	December 15
July	February 1	May 15

Any person seeking admission to the Louisiana Bar shall apply to the Committee on Bar Admissions of the Supreme Court of Louisiana (“Bar Committee”), requesting that the National Conference of Bar Examiners (“NCBE”) prepare a character report.² *Id.* at § 4(C). No applicant will be admitted to the practice of law in Louisiana until a final, satisfactory report of investigation has been received from the NCBE, and the Bar Committee certifies the applicant’s character and fitness to practice law. *Id.* The applicant bears the burden of proof to demonstrate his/her good moral character and fitness to practice law by clear and convincing evidence.³ *Id.* at § 5(D).

¹ If an applicant is a graduate of a law school that is not located in the United States or its territories, such applicant must submit an application for an equivalency determination in accordance with Section 6 Rule XVII of the Louisiana Supreme Court.

² For more detailed information, please see <http://www.lascba.org>.

³ The term “good moral character” includes, without limitation, the qualities of honesty, fairness, candor, trustworthiness, observances of fiduciary responsibility, and the laws of the State of Louisiana and of the United

In compliance with the appropriate deadline, the applicant must submit a Bar Examination Application, payment of the applicable fees to the Bar Committee and a request for the preparation of the complete character report and payment to the NCBE. *Id.* at § 4(C). No less than thirty (30) days prior to the bar examination, the Bar Committee will notify the applicant whether he or she has been approved to sit for the written examination pursuant to the requirements of Section 3, including whether the applicant has met the “character and fitness” requirement. *Id.* at §§ 3, 4(F). However, any approval by the Bar Committee is preliminary until the applicant has taken the oath of office and been admitted as a member of the Bar.⁴ *Id.* at § 4(I).

The Panel on Character and Fitness (“the Panel”) makes character and fitness determinations for applicants to the Bar.⁵ If the Panel determines that the applicant does not possess good moral character and fitness to practice law, the applicant will not be certified to the Court for admission to the Bar. *Id.* at § 5(K). An applicant who is denied certification by the Bar Committee may file a Petition for Admission to the Bar with the Court within thirty (30) days from the date of mailing of the notice. *Id.* at § 9(B). Failure to timely appeal the Bar Committee’s denial of admission is considered a waiver of that right. *Id.* If the cause of the denial relates to the character and fitness requirement, however, with the consent of the

States, and a respect for the rights of other persons. LA. SUP. CT. R. XVII § 5(B). The term “fitness,” includes without limitation, the mental or emotional suitability of the applicant to practice law in this state. *Id.* The Panel considers the following conduct, *inter alia*, as a basis for investigation prior to recommending admission: 1) arrests or criminal charges; 2) misconduct in employment; 3) acts involving dishonesty, fraud, deceit or misrepresentation; 4) commission of an act constituting the unauthorized practice of law, and 5) evidence of drug or alcohol misuse, abuse or dependency. *Id.* at § 5(E).

⁴ Subsequent to preliminary approval or certification by the Bar Committee, changes in circumstance, or discovery of previously unknown information, or reconsideration of previously known information, may result in refusal by the Committee to certify an applicant for admission, or in the withdrawal of a previously indicated approval of certification if the applicant has not yet been admitted to the Bar. LA. SUP. CT. R. XVII § 4(I).

⁵ The Panel on Character and Fitness is composed of the Director of Character and Fitness and two other Bar Committee members. La. Sup. Ct. R. XVII § 5(C).

applicant, the Panel may recommend that he/she receive “conditional admission.” *Id.* at § 5(M). Condition admission is warranted if the applicant’s record shows conduct that may otherwise warrant denial due to present or past substance misuse, abuse or dependency, physical, mental or emotional disability or instability, or neglect of financial responsibilities, and the applicant agrees to be admitted subject to certain terms and conditions set forth in a “conditional admission consent agreement.”⁶ *Id.* at § 5(M)(1). To qualify for conditional admission, the applicant must demonstrate a “commitment to rehabilitation and an ability to meet the essential eligibility requirements of the practice of law....” *Id.* Notwithstanding the recommendation of the Panel, the Court has ultimate discretion to approve, modify or deny the conditional admission. *Id.* at §§5(M)(5).

a. *The Bar Examination*

The Louisiana Bar Exam consists of two parts: the nine-part written examination and the Multistate Professional Responsibility Examination (“MPRE”). *Id.* at § 7(A). The subjects tested on Part I include:

“Code” Examinations

1. Civil Code I
2. Civil Code II
3. Civil Code III
4. Louisiana Code of Civil Procedure
5. Torts

⁶ The Director of Character and Fitness and the applicant must jointly file with the Court a petition seeking conditional admission, attaching the consent agreement, and said motion must be approved by the Court. LA. SUP. CT. R. XVII §§ 5(M)(4)-(5).

“Non-code” Examinations

6. Business Entities and Negotiable Instruments
7. Constitutional Law
8. Criminal Law, Procedure and Evidence
9. Federal Jurisdiction and Procedure

Id. An applicant who passes at least seven (7) separate subject examinations, including four (4) Code examinations, with a score of 70 or higher, passes Part I. *Id.* Louisiana, unlike most jurisdictions, allows an applicant to “conditionally fail” if he/she passes at least five (5) separate subject examinations. *Id.* An applicant who conditionally fails Part I is allowed to twice re-take the failed examinations within three years from the original examination date (which ever comes first), before having to re-take the entire bar examination. *Id.* at § 8(A).

Finally, an applicant not admitted to the Bar of any other state must take the MPRE, which is administered by the NCBE, at any time after successfully completing his or her required law school course work in legal ethics or professional responsibility. *Id.* at § 7(B). As a condition precedent to admission to the Louisiana Bar, the applicant must pass the MPRE with a score of 80. *Id.* However, an applicant who has been admitted to the Bar of another state, passed the MPRE fulfilling its Bar admissions requirement, and complied with its CLE requirements, does not have to take the MPRE to be admitted to the Louisiana Bar. *Id.* at § 8(D).

b. Fees

The following fees are required for admission to the Louisiana State Bar Association (bar examination charges):⁷

⁷ All fees are non-refundable except that a member of the military who is called to service after submitting fees may request a refund. LA. SUP. CT. R. XVII, Appendix (A).

Louisiana Bar Admission Fees	
Bar Examination Application Fee	\$550 (additional \$750 late fee)
Elective Laptop Computer Fee	\$150 (varies each year)
MPRE Ethics Examination	\$60 (additional \$60 late fee)
NCBE Character Report	\$200
Total	\$960

Louisiana Supreme Court Rule XVII, Appendix (A). After gaining admission, the applicable fees to maintain your license in Louisiana are set forth below:

Louisiana Bar License Maintenance Fees	
LSBA Dues	
- Lawyers admitted to the bar more than three years	\$200
- Lawyers admitted to the bar three years or less.	\$80
Disciplinary Board Fee	
- Lawyers admitted to the bar more than three years	\$235
- Lawyers admitted to the bar three years or less.	\$175
Total	\$255/\$435

Bylaws of the Louisiana State Bar Association, § 1. However, dues waivers may be available for any attorney experiencing illness, financial hardship, or any other extraordinary circumstances. *Id.* at § 2.

B. Admission to Federal Courts in Louisiana

To be admitted to practice on more than a temporary basis in federal courts in Louisiana, the attorney must be admitted to practice by the Louisiana State Bar and in good standing. LR 83.2.2.⁸ Each applicant must file a signed petition with the endorsement of two members of the Louisiana Bar, listing the applicant’s residence and office address, his/her general and legal education, the courts where he/she is admitted, and stating that the applicant is qualified to practice before the court, is of good moral character, and is not subject to any pending

⁸ There are minor differences in the Uniform Local Rules for the United States District Courts for the Eastern, Middle and Western Districts of Louisiana. Regarding attorney admissions, the designation L.R.83.2, *et al.*, will be used to refer to all Louisiana federal courts, and differences will be noted where relevant. For instance, LR83.2.2E specifically states that, for an attorney to be admitted, he/she must be “of good moral character.”

disbarment or professional discipline procedure in any other court.⁹ *Id.* at LR 83.2.3(A). The applicant may be admitted in open court, in chambers, or by mail,¹⁰ and upon taking an oath to “conduct himself or herself as an attorney or counselor of this court uprightly and according to law and to support the Constitution of the United States.” *Id.* The applicant must also pay the applicable fee.¹¹ *Id.* at § B.

II.

PRO HAC VICE ADMISSION

Texas attorneys who desire to appear in a *limited* capacity in Louisiana, but who do not wish to sit for the Bar Examination, may wish to seek permission to appear *pro hac vice*. *Pro hac vice* refers to a “lawyer who has not been admitted to practice in a particular jurisdiction, but who is admitted there temporarily for the purpose of conducting a particular case. *Black’s Law Dictionary* 1248 (8th ed. 2004). However, it must be noted that this is for *temporary* purposes – any out-of-state attorney seeking to appear on a frequent, or even occasional basis, may be best served by seeking permanent admission to the Louisiana Bar. The processes for applying for *pro hac vice* in Louisiana federal and state courts are set forth below.

⁹ The Eastern District Court’s local rules state that it requires the applicant not have been convicted of a felony. LR.83.2.3E. Though the Uniform Rules do not state that previous disciplinary action or a felony conviction would preclude admission to the court, they do require that full information about the conviction or disciplinary proceedings must be provided. LR 83.2.3.

¹⁰ The U.S. District Court for the Eastern District of Louisiana only allows admissions by mail if personal appearance would present an undue hardship for the applicant or if the applicant resides outside the boundaries of the district. LR 83.2.3E.

¹¹ The fee for admission into the Eastern and Middle District Courts is \$150, and for the Western District the fee is \$175. Additionally, the Middle and Eastern District Courts require the payment of a nominal annual fee (that may be paid triennially). The Eastern District Court also requires the attorney to file a registration statement along with payment of the first year’s annual fee.

A. Louisiana State Courts

By promulgating Section 13 of Rule XVII in July 2004, the Louisiana Supreme Court has adopted a uniform process for out-of-state lawyers to apply for admission *pro hac vice*. Any out-of-state attorney “temporarily present” in Louisiana can practice *pro hac vice* in Louisiana in a particular proceeding, but must associate with a Louisiana licensed attorney. *See* LA. SUP. CT. R. XVII § 13(A)(1)(i)-(ii) (setting forth requirements for out-of-state attorney to qualify for *pro hac vice* admission). To be admitted to practice *pro hac vice* in Louisiana, the out-of-state attorney must: (1) be a member in good standing of the Bar of any United States District Court, the highest court of any state, territory, or insular possession of the United States or the District of Columbia; (2) work on matter in conjunction with an attorney duly licensed in Louisiana; and (3):

- a. lawfully practice solely on behalf of the attorney’s employer and its commonly owned organizational affiliates, regardless of where the attorney resides or works;
- b. neither reside nor be regularly employed in Louisiana; or
- c. reside in Louisiana but:
 - i. lawfully practices from offices in at least one other state; and
 - ii. only practices no more than temporarily¹² in Louisiana, whether via *pro hac vice* admission or other lawful means.

See id (defining an out-of-state-attorney eligible for *pro hac vice* admission).

The out-of-state attorney who seeks *pro hac vice* admission must be authorized to do so by court order. LA. REV. STAT. ANN. § 37:214 (2007). Also, all pleadings filed by an out-of-

¹² An out-of-state attorney who was registered to vote in Louisiana, obtained a Louisiana driver's license, and bought a house in Louisiana, was not “temporarily present” for the purpose of *pro hac vice*. *See In re Singer*, 819 So.2d 1017 (La. 2002) (stating that *pro hac vice* admission is a courtesy extended to other state bars and must not be used to escape the requirement of bar membership and disciplinary compliance).

state attorney must be accompanied by the court order authorizing the appearance of the visiting attorney. *See id.* at § 37:216. The Rules require the out-of-state attorney to file the “Application for *Pro Hac Vice* Admission,” a standardized six page form that must be verified by the out-of-state and local counsel with the Louisiana Attorney Disciplinary Board. LA. SUP. CT. R. XVII § 13(A)(3)(i). The applicant must also submit a non-refundable fee of \$250.00, unless the attorney is providing pro bono services.¹³ *Id.* at §§ 13(A)(3)(i); 13(A)(4)(ii)-(iii). After receiving notice from the Louisiana Attorney Disciplinary Board regarding receipt of the application, the in-state attorney must file a motion with the court or agency where the proceeding is pending requesting the out-of-state attorney be admitted *pro hac vice*. *Id.* at §§ 13(A)(3)(ii). The motion may be filed *ex parte*, but must be served on all parties to the proceeding and the Louisiana Attorney Disciplinary Board, and *must be filed no later than 30 days before the scheduled trial or hearing date*. *Id.* at § 13(A)(3)(ii). Within twenty (20) days of service of the motion, any party may object to the motion, which must contain a verified affidavit stating the factual basis for the objection. *Id.* at § 13(A)(3)(iii). The court or agency before which the motion and application are pending has discretion to grant such, and can also deny the request summarily. *Id.* at § 13(A)(3)(ii). The motion should be granted unless the court or agency finds reason to believe:

- a) the admission may be detrimental to the prompt, fair and efficient administration of justice;
- b) the admission may be detrimental to legitimate interests of the parties to the proceedings other than the client(s) the applicant proposes to represent;
- c) one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk;

¹³ The court or agency before which the application is filed may assess an additional fee. *See* LA. SUP. CT. R. XVII § 13(A)(4)(ii).

- d) the applicant has engaged in frequent appearances as to constitute regular practice in this state;
- e) the applicant attorney is not competent or ethically fit to practice;
or
- f) the applicant has failed to otherwise comply with the requirements of these rules.

Id. at § 13(A)(3)(iv).

Though Louisiana does not allow reciprocity, there are circumstances in which it recognizes certain exceptions to the *pro hac vice* rules. Louisiana law provides for a limited form of reciprocity allowing out-of-state attorneys whose licensing state allows Louisiana lawyers to practice *pro hac vice* before their home state courts without associating with a local attorney, to practice *pro hac vice* in Louisiana without local counsel. LA. REV. STAT. ANN. § 37:214-15 (visiting attorney must demonstrate proof of reciprocity rules for his/her state of bar admission). In-house counsel are also relieved of some of the rules governing *pro hac vice*. Louisiana law allows in-house counsel to apply for a renewable¹⁴ limited 4-year license if: (1) the attorney is admitted in another state; and (2) is exclusively employed in Louisiana by a corporation, its subsidiaries or affiliates, an association, and/or a business whose activity is not practicing law. *Id.* at §§14(A), (E).

Out-of-state attorneys can also conduct certain temporary, non-appearance related legal services in this state without seeking admission:

- 1) discovery or other non-court legal matters conducted in Louisiana, but related to proceeding pending outside this state;
- 2) consultation with in-state attorneys concerning the in-state attorneys' clients;

¹⁴ Though the Rule states that the limited in-house counsel license can be “renewed for a successive four year period,” it is unclear if this imposes a cap of eight (8) years on the in-house counsel license. LA. SUP. CT. R. XVII, § 14(F).

- 3) consultation in Louisiana with potential Louisiana clients contemplating litigation as long as the potential client has requested the consultation;
- 4) preparation for a potential proceeding in Louisiana, if out-of-state attorney is eligible for admission *pro hac vice*;
- 5) consult with a Louisiana client concerning proceeding expected to be filed in another state in which the attorney is admitted to practice;
- 6) render legal services outside Louisiana for a client located within Louisiana;
- 7) preparation for and participate in an alternative dispute resolution (ADR) proceeding to take place within or outside Louisiana.

Id. at § 13(B)(1)-(6). Additionally, in anticipation of litigation to be filed in Louisiana, an out-of-state attorney may render legal services in Louisiana in preparation for a potential lawsuit, provided the attorney reasonably believes he/she is eligible for admission *pro hac vice*, regardless of whether it is ultimately granted or denied. *Id.* at §§ 13(B)(3). The Louisiana Rules of Professional Conduct¹⁵ also authorize out-of-state lawyers to provide temporary legal services in Louisiana that:

- (1) are provided to the lawyers' employer or its organizational affiliates and are not services for which the forum requires *pro hac vice* admission and that are provided by an attorney who has received a limited license to practice pursuant to La. S. Ct. Rule XVII, § 14; or
- (2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

LA. RULES OF PROF'L CONDUCT R. 5.5(d).

Texas attorneys should be cognizant that Louisiana state courts require local counsel to remain responsible for *pro hac vice* admittees. LA. SUP. CT. R. XVII § 13(A)(2)(iii).

¹⁵ The Louisiana Rules of Professional Conduct also authorize *pro hac vice* admission for out-of-state attorneys. LA. RULES OF PROF'L CONDUCT R. 5.5(c).

Specifically, the Rule provides that “any in-state lawyer for th[e] client in the proceeding remains responsible to the client and remains responsible for the conduct of the proceeding before the court or agency.” *Id.* Also, the state judges will generally require the presence of local counsel when *pro hac vice* admittees are addressing the court.

B. Louisiana Federal Courts

In federal courts in Louisiana, the Uniform Local Rules of the United States District Courts for the Eastern, Middle and Western Districts of Louisiana govern the practice of visiting attorneys in Louisiana.¹⁶ L.R. 83.2.6. Local Rule 83.2.5 provides that in all cases filed in Louisiana federal courts, any party who does not appear in person must be represented by an attorney admitted to practice before said court.¹⁷ However, the Local Rules allow any out-of-state attorney who is a member in good standing of the bar of any court of the United States or of the highest court of any state, to appear and participate as co-counsel in a particular case, by ex parte order granting the attorney *pro hac vice* admission. L.R. 83.2.6. Local counsel of record must file a *pro hac vice* motion, attaching a recent certificate from the presiding judge or clerk of the highest court of the state, or court of the United States, demonstrating that the applicant is licensed and is in good standing in his or her state of residence. *Id.* The applicant attorney must take an oath, including a statement of whether any disciplinary proceedings or criminal charges have been instituted against him/her, and if so, disclose full information about the proceeding or charges and the ultimate determination, if any. *Id.* The fee associated with applying for *pro hac*

¹⁶ There are minor differences in the Uniform Local Rules for the United States District Courts for the Eastern, Middle and Western Districts of Louisiana. However, regarding visiting attorneys, the designation L.R. 83.2.6, *et al.*, will be used to refer to all Louisiana federal courts, and differences will be noted where relevant.

¹⁷ Designation of the visiting attorney as “Trial Attorney” pursuant to LR 11.2 herein shall not relieve the local counsel of the responsibilities imposed by this rule.

vice varies, depending on which U.S. District Court before which you seek to appear.¹⁸ It is not necessary to comply with the procedure in state courts in order to be admitted *pro hac vice* in federal courts.

Federal courts in Louisiana require that the local counsel remain responsible for *pro hac vice* admittees. LR 83.2.6. Specifically, the local rules state that “local counsel shall be responsible to the court at all stages of the proceedings,” and must sign all pleadings. *Id.* An important exception and practice point, however, is that an attorney who is not eligible to become a member of the federal Bar in that Court pursuant to Local Rule 83.2.2 may be authorized by the court to appear without joinder of local counsel if: (1) the party would suffer hardship by joinder of local counsel; and (2) the obligations and duties of counsel in the particular litigation will be fulfilled. LR 83.2.7.

III.

CLE REQUIREMENTS

Each attorney licensed in Louisiana must “attend, or complete an approved substitute for attendance, a minimum of twelve and one half (12.5) hours of approved CLE each calendar year.” LA. SUP. CT. R. XXX, § (a), (e)(Reg. 3.1). One (1) hour of CLE concerning legal ethics and one (1) hour concerning *professionalism* is required as part of the annual requirement for CLE courses. *Id.* at § (c). For newly admitted members, however, during the calendar year immediately following their admission, at least eight (8) hours of the annual CLE requirement must consist of courses concerning legal ethics, professionalism, or law office management. *Id.* at § (b).

¹⁸ The fee associated with seeking to appear before federal courts in Louisiana as a visiting attorney, or *pro hac vice*, varies with each court. *Id.* The application fees are: (1) \$25 in the Western District of Louisiana; (2) \$40 in the Middle District of Louisiana; and (3) \$5 in the Eastern District of Louisiana.

Any Texas CLE course can be recognized provided it meets the guidelines established by the Louisiana Supreme Court, and it is *approved* by the Committee on Mandatory Continuing Legal Education (“The Committee”). LA. SUP. CT. R. XXX, Reg. 3.6. Among acceptable CLE course, the following may be most feasible for Texas licensed attorneys:

1. self-study credits limited to 4 hours annually.¹⁹ *Id.* at § 3(d).
2. teaching a course in an American Bar Association accredited law school or a legal course at an accredited undergraduate college or university.²⁰ *Id.* at Reg. 3.8.
3. authorship of a law review article on matters of law published by an American Bar Association accredited law school, or through authorship of a book on matters of law published by a recognized publishing company.²¹ *Id.* at Reg. 3.9.
4. formal enrollment and education in an American Bar Association accredited law school.²² *Id.* at Reg. 3.11.

There are two caveats that should be noted. One has to do with “technologically assisted” CLE, e.g., on-line CLE. The regulating authority for Louisiana mandatory CLE, provides the following explanation on its website²³:

The Supreme Court rules allow up to 4 hours of technologically assisted programming per reporting period. MCLE Committee guidelines for accreditation require that a course have an interactive component, and that the sponsor have a tracking mechanism to verify the actual time spent engaged in the program by the participating attorney. For this reason, the Committee strongly recommends that members obtaining this kind of credit

¹⁹ Activities providing self-study credit hours through participation in technological transmissions must be pre-approved by the MCLE Committee for self-study credits. LA. SUP. CT. R. XXX, Reg. 3.13.

²⁰ The Committee will award six (6) hours of CLE credit for each hour of academic credit awarded by the law school or undergraduate university for the course. LA. SUP. CT. R. XXX, Reg. 3.8.

²¹ The Committee will award six (6) hours of CLE credit for each such article or book published. LA. SUP. CT. R. XXX, Reg. 3.9. Any attorney may petition the Committee for credit for authorship of articles on matters of law published in other publications. The article must comply with the provisions of Regulation 4.1(a) and (b). *Id.*

²² The Committee will award six (6) hours of CLE credit for each hour of academic credit awarded by the law school. LA. SUP. CT. R. XXX, Reg. 3.11.

²³ Mandatory Continuing Legal Education. Available at: <http://www.lascmcle.org/>.

get their courses from the pre-approved group in the MCLE Calendar of Technologically Assisted Programming. All courses have been reviewed for content, and the sponsors have verified that they will follow our accreditation guidelines and will also report attendance upon completion of the program.

Members who want to file for online courses that were not preapproved will likely find that their application will be denied credit unless they can verify that the provider has followed these guidelines. Since the requirements for accreditation vary from state to state, many large providers DO NOT verify participation time, and their courses will not qualify.

The second caveat is that Louisiana does not *generally* recognize CLE credit for in-house CLE programs or programs put on by law firms for the benefit of their members or employees. Regulation 3.15 provides that “[n]o credit will be given for activities sponsored by law firms and corporate law departments for the sole or principal benefit of their own members or employees.”

IV.

UNAUTHORIZED PRACTICE OF LAW

Attorneys engaging in actions that could possibly be construed as practicing law without first having obtained the court’s permission should be aware that they may be unknowingly engaging in the “unauthorized practice of law.” Louisiana statutes forbid any natural person, corporation or voluntary association, partnership, or limited liability company, except those formed for the practice of law,²⁴ who has not been “duly and regularly licensed” and admitted to the Louisiana Bar, from:

- (1) practicing law;
- (2) furnishing attorney or counsel to render legal services;
- (3) holding himself or itself out to the public as being entitled to practice law;

²⁴ Attorneys licensed in Louisiana can form partnerships with attorneys licensed in other jurisdictions as long as the firm’s public notices and letterhead identifies the jurisdictional limitations of its attorneys. *See Singer Hunter Levin Seeman & Stuart v. La. State Bar Ass'n.*, 378 So.2d 423 (La. 1979).

- (4) rendering or furnishing legal services or advice;
- (5) assuming to be an attorney at law or counselor at law;
- (6) assuming, using or advertising the title of lawyer, attorney, counselor, advocate or equivalent terms in any language, or any phrase containing any of these titles in such a manner as to convey the impression that he is a practitioner of law;
- (7) advertising that the attorney operates a law office.

LA. REV. STAT. ANN. § 37:213. Violation of any of the above provisions by an individual is a crime punishable by a fine of not more than one thousand dollars and/or imprisonment for not more than two years. *Id.* Louisiana courts have taken the enforcement of them seriously, and have penalized those attorneys who engaged in the unauthorized practice of law. For example, the Louisiana Supreme Court has refused to admit applicants to the Bar finding that they engaged in the unauthorized practice of law prior to seeking admission. *See In re Woodard*, 803 So.2d 969 (La.2001) (denying admission based on unauthorized practice of law; applicant working as paralegal/lawyer clerk in law office of an attorney, held himself out to clients as a licensed attorney). Also, in *In Re Singer*, the Supreme Court found that an attorney who was admitted via *pro hac vice* should be disqualified to represent indigent defendants in death penalty cases because he engaged in the unauthorized practice of law by representing clients in eight cases venued in five different parishes. 819 So.2d 1017, 1018-19 (La.2002).

Out-of-state attorneys are also forbidden from soliciting their services in Louisiana. LA. SUP. CT. R. XVII, § 13(B)(7). The Rules state that an out-of-state attorney cannot establish a law office or hold himself out to non-lawyers who didn't request his/her services to assist in a potential lawsuit. *Id.*; La. Rules of Prof'l Conduct R. 5.5(b). More specifically, an out-of-state attorney cannot "hold himself or herself out, to non-lawyers who have not requested the out the out-of-state lawyer's presence, as available to assist in potential suits. . . or to solicit, advertise,

or otherwise hold themselves out in [Louisiana] publications as available to assist in litigation.” *Id.* at § 13(B)(7). In other words, out-of-state attorneys who are not licensed in Louisiana can practice sporadically or temporarily, but cannot attempt to advertise or solicit new clients or cases in Louisiana.

Louisiana has also enacted an ethics rule regarding the “unauthorized practice of law,” stating that an out-of-state lawyer shall not:

- (1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or
- (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

LOUISIANA RULES OF PROF'L CONDUCT R. 5.5(b). Out-of-state attorneys should be asking themselves: what constitutes “practicing law” pursuant to Louisiana law? Rule 5.5(e)(3) sets forth a definition:

For purposes of this Rule, the practice of law shall include the following activities:

- (i) holding oneself out as an attorney or lawyer authorized to practice law;
- (ii) rendering legal consultation or advice to a client;
- (iii) appearing on behalf of a client in any hearing or proceeding, or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, hearing officer, or governmental body operating in an adjudicative capacity, including submission of pleadings, except as may otherwise be permitted by law;
- (iv) appearing as a representative of the client at a deposition or other discovery matter;
- (v) negotiating or transacting any matter for or on behalf of a client with third parties;
- (vi) otherwise engaging in activities defined by law or Supreme Court decision as constituting the practice of law.

Id. at R. 5.5(e)(3). The Louisiana Legislature has also set forth a definition for “practicing law”:

* * *

- (1) In a representative capacity, the appearance as an advocate, or the drawing of papers, pleadings or documents, or the performance of any act in connection with pending or prospective proceedings before any court of record in this state; or
- (2) For a consideration, reward, or pecuniary benefit, present or anticipated, direct or indirect;
 - (a) the advising or counseling of another as to secular law;
 - (b) on behalf of another, the drawing or procuring, or the assisting in the drawing or procuring of a paper, document, or instrument affecting or relating to secular rights;
 - (c) the doing of any act, in behalf of another, tending to obtain or secure for the other the prevention or the redress of a wrong or the enforcement or establishment of a right; or
 - (d) certifying or giving opinions as to title to immovable property or any interest therein or as to the rank or priority or validity of a lien, privilege or mortgage as well as the preparation of acts of sale, mortgages, credit sales or any acts or other documents passing titles to or encumbering immovable property.

* * *

LA. REV. STAT. ANN. § 37:212.

Since Louisiana courts appear to rather fervently enforce its rules relating to the unauthorized practice of law, it would behoove Texas attorneys, especially those attorneys who may seek admission to the Louisiana bar to be especially careful about their conduct as *pro hac vice* attorneys in Louisiana. However, as noted above in Section II(A) of this Article, there are certain “safe harbors” that allow an out-of-state attorney to engage in certain “temporary, non-appearance related” legal conduct that is not considered “practicing law.” La. Sup. Ct. R. XVII § 13(B)(1)-(6).

Finally, an important practice point for Texas attorneys concerns Letters Rogatory. Under certain conditions, when an action is pending in Texas, a witness residing in Louisiana may be subpoenaed for his/her deposition in another state or jurisdiction. Texas attorneys should refrain from using this procedure to circumvent the rules governing admission to the Bar. An attorney should be admitted, either *pro hac vice*, or as a member of the Bar, to subpoena a Louisiana resident for his/her deposition in Louisiana pursuant to Letters Rogatory.²⁵ Local judges have been known to complain to the Louisiana Attorney Disciplinary Board regarding unlicensed attorneys' attempts to have a subpoena issue via Letters Rogatory, arguing that this conduct constitutes the unauthorized practice of law.

²⁵ This practice point is not applicable in cases pending in federal court, since the clerk of the federal court where the deposition is to be taken or the attorney as an officer of the federal court in which he/she is admitted may issue a subpoena to a witness for attendance at a deposition. Fed. R. Civ. P. 45(2)-(3).