Unauthorized Practice of Law & Who may practice as an attorney:


Practice without license or oath; penalty; qualification after institution of suits

It shall be unlawful for any natural person to practice or appear as an attorney-at-law for another in a court of record in this state, or to make it a business to solicit employment for an attorney, or to furnish an attorney or counsel to render legal services, or to hold himself out to the public as being entitled to practice law, or in any other manner to assume, use, or advertise the title of lawyer, or attorney and counselor-at-law, or counselor, or attorney and counsel, or equivalent terms in any language, in such manner as to convey the impression that he is a legal practitioner of law, or in any manner to advertise that he, either alone or together with other persons, has, owns, conducts or maintains a law office, without first having been duly and regularly licensed and admitted to practice law in a court of record of this state, and without having subscribed and taken the oath required by the next preceding section. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars; but this penalty shall not be incurred by any attorney who institutes suits in the circuit courts after obtaining a license, if he shall qualify at the first term thereafter of a circuit court of any county of the circuit in which he resides.


Practice by corporations or voluntary associations; penalties; limitations of section.

Except as provided by section five-a of this article, it shall be unlawful for any corporation or voluntary association to practice or appear as an attorney at law for any person in any court of this state or before any judicial body, or to hold itself out to the public as being entitled to practice law, or to render or furnish legal services or advice, or to furnish an attorney or counsel to render legal services of any kind in actions or proceedings of any nature, or in any other manner to assume to be entitled to practice law, or assume, use or advertise the title of lawyer in such manner as to convey the impression that it is entitled to practice law or to furnish legal advice, services or counsel, or to advertise that, either alone or together with or by or through any person, whether a duly and regularly admitted attorney at law or not, it has, owns, conducts or maintains a law office for the practice of law, or for furnishing legal advice, services or counsel. It shall be unlawful further for any corporation or voluntary association to solicit, itself or by or through its officers, agents or employees, any claim or demand for the purpose of bringing an action thereon, or of settling the estate of any insolvent debtor, or of representing as attorney at law, or of furnishing legal advice, services or counsel to, a person sued or about to be sued in any action or proceeding, or against whom an action or proceeding has been or is about to be brought, or who may be affected by any action or proceeding which has or may be instituted in any court or before any judicial body, or for the purpose of so representing any person in the pursuit of any civil or criminal remedy. Any corporation or voluntary association violating the provisions of this section, or any officer, trustee, director, agent or employee of such corporation or voluntary association who directly or indirectly engages in any of the acts herein prohibited, or assists such corporation or voluntary association to do such prohibited acts, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars. The fact that any such officer, trustee, director, agent or employee shall
be a duly and regularly admitted attorney at law shall not be held to permit or allow any such corporation or voluntary association to do the acts prohibited herein, nor shall such fact be a defense upon the trial of any of the persons mentioned herein for a violation of the provisions of this section.

This section shall not apply to a partnership composed of licensed attorneys, or to a corporation or voluntary association lawfully engaged in examining and insuring the titles to real property, nor shall it prohibit a corporation or voluntary association from employing an attorney or attorneys in and about its own immediate affairs or in any litigation to which it is or may be a party, nor shall it apply to organizations organized for benevolent or charitable purposes, or for the purpose of assisting persons without means in the pursuit of any civil remedy.

**Case Law:**


Drafting a will for another person, advising another person how to draft a will or supervising its execution are activities which constitute the practice of law. See generally annot., 22 A.L.R.3d 1112 (1968), especially § 3 thereof. Certainly such activities come within our definition of the practice of law, as they constitute the giving of advice to another person on a matter involving the application of legal principles to facts, purposes or desires, and they involve the preparation of legal instruments for another person. On the other hand, merely typing a legal instrument drafted by another person or merely reducing the words of another person to writing does not constitute the preparation of a legal instrument and, thus, does not constitute the practice of law. *Mickel v. Murphy*, 147 Cal.App.2d 718, 305 P.2d 993 (1957), overruled on other grounds, *Biakanja v. Irving*, 49 Cal.2d 647, 320 P.2d 16 (1958).


As this Court is the highest judicial body in the State, it possesses the power to define, supervise, regulate and control the practice of law in West Virginia. This power exists inherently and by express recognition in our Constitution. We acknowledged the inherent authority courts possess with respect to the practice of law in syllabus point 10 of *West Virginia State Bar v. Earley*, 144 W.Va. 504, 109 S.E.2d 420 (1959) where we held, "[i]n the exercise of their inherent power the courts may supervise, regulate and control the practice of law by duly authorized attorneys and prevent the unauthorized practice of law by any person, agency or corporation." The express authority granted to this Court by constitutional mandate was initially recognized in syllabus point 1 of *Lane v. West Virginia State Board of Law Examiners*, 170 W.Va. 583, 295 S.E.2d 670 (1982): "[t]he exclusive authority to define, regulate and control the practice of law in West Virginia is vested in the Supreme Court of Appeals." *See syl. pt. 1 of State ex rel. Askin v. Dostert*, 170 W.Va. 562, 295 S.E.2d 271 (1982); *see also State ex rel. Partain v. Oakley*, 159 W.Va. 805, 815, 227 S.E.2d 314, 320 (1976).


Pursuant to West Virginia law, decision in which state bar committee on unlawful practice held that insurance company's distribution to insurance claimants of pamphlets regarding advisability of hiring attorney was unauthorized practice of law was judicial decision within scope of Rooker-Feldman doctrine barring review by inferior federal courts of state-court decisions. ... Rooker-Feldman doctrine prevented
district court from exercising subject matter jurisdiction over decision in which state bar committee on unlawful practice held that insurance company's distribution to insurance claimants of pamphlets regarding advisability of hiring attorney was unauthorized practice of law, inasmuch as committee, in issuing decision, acted as arm of state courts engaged in judicial decision-making process.

Non-lawyer customer, who paid money to real estate title companies for certain services that she alleged she expected to be done under the supervision of a properly licensed legal professional, had standing to assert claims for both injunctive and monetary relief against companies for their alleged unauthorized and unlawful practice of law in state when providing real estate title and closing services.

Shenandoah Sales & Serv., Inc. v. Assessor of Jefferson County, 724 S.E.2d 733 (W. Va. 2012)
Vice president of corporation engaged in the unauthorized practice of law by filing appeal to the circuit court from denial by county board of review and equalization of objections to the real estate tax assessment and approval of assessor's valuation, where vice president stated that he filed hundreds of pages of briefs, motions, requests, and orders on behalf of the corporation, including summary judgment motions, a motion for default judgment, and a motion to recuse the circuit judge, and the motions cited to legal authority and made legal arguments. ... Statute that allowed a corporation's non-lawyer representative to appeal a decision of the board of equalization and review to a circuit court was unconstitutional as a legislative encroachment on Supreme Court of Appeals' exclusive authority to define, regulate, and control the practice of law. ... Court rule requiring corporations to be represented by attorneys applied to closely held corporation; nothing in state jurisprudence exempted a closely-held corporation from the general rule, as there were problems inherent in allowing non-lawyers to practice law. W.Va.Code, 51-1-4a(d, e).

Ethics Opinions: http://www.wvbar.org/public-information/advisory-opinions/
See Also http://www.wvodec.org/subject.html