

Ethical Boundaries in Administrative Law Practice:

Avoiding Unauthorized Practice, Maintaining Confidentiality,
and Handling Conflicts of Interest.

Supplemental Materials

Rules Regulating the Florida Bar

Rule 20-7.1, The Florida Registered Paralegal Program

Rule 4-5.3, Rules of Professional Conduct

Florida Statutes

Section 454.23, F.S.

Florida Administrative Code

Rule 28-106.105, F.A.C.

Rule 28-106.106, F.A.C.

Rule 28-106.107, F.A.C.

Links to UPL cases in Florida

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[Filing an Unlicensed Practice of Law Complaint](#)

Rules Regulating the Florida Bar

CHAPTER 20. FLORIDA REGISTERED PARALEGAL PROGRAM

[Florida Bar Rule 20-7.1](#) outlines the Code of Ethics and Responsibility that a Florida Registered Paralegal (FRP) must follow.

Summary of Rule 20-7.1

- **(a) Disclosure:** An FRP must disclose their status as a Florida Registered Paralegal at the beginning of any professional relationship with clients, lawyers, courts, administrative agencies, and the general public. Using the initials "FRP" satisfies this only if the word "paralegal" also appears (e.g., *J. Doe, FRP, Paralegal*).
- **(b) Confidentiality and Privilege.** A paralegal must protect the confidences and secrets of all clients.
- **(c) Appearance of Impropriety or Unethical Conduct:** An FRP must understand an attorney's Rules of Professional Conduct to avoid actions that would involve the supervising lawyer in a rule violation or create the appearance of professional impropriety.
- **(d) Prohibited Conduct:** An FRP must not establish attorney-client relationships, accept cases, set legal fees, give legal advice or opinions, represent clients in a tribunal (unless authorized), or engage in the unlicensed practice of law.
- **(e) Performance of Services:** An FRP must act prudently when determining if a client can be assisted without an attorney present and may only perform delegated services under the direct supervision of a qualified lawyer. A Florida Registered Paralegal may perform services for an attorney in the representation of a client, provided:
 - (1) the services performed by the paralegal do not require the exercise of independent professional legal judgment;
 - (2) the attorney is responsible for the client, maintains a direct relationship with the client, and maintains control of all client matters;
 - (3) the attorney supervises the paralegal;
 - (4) the attorney remains professionally responsible for all work on behalf of the client and assumes full professional responsibility for the work product, including any actions taken or not taken by the paralegal in connection therewith; and
 - (5) the services performed supplement, merge with, and become the attorney's work product.

20-7. CODE OF ETHICS AND RESPONSIBILITY

RULE 20-7.1 GENERALLY

A Florida Registered Paralegal shall adhere to the following Code of Ethics and Responsibility:

(a) Disclosure. A Florida Registered Paralegal shall disclose his or her status as a Florida Registered Paralegal at the outset of any professional relationship with a client, lawyers, a court or administrative agency or personnel thereof, and members of the general public. Use of the initials FRP meets the disclosure requirement only if the title paralegal also appears. For example, J.Doe, FRP, Paralegal. Use of the word “paralegal” alone also complies.

(b) Confidentiality and Privilege. A Florida Registered Paralegal shall preserve the confidences and secrets of all clients. A Florida Registered Paralegal must protect the confidences of a client, and it shall be unethical for a Florida Registered Paralegal to violate any statute or rule now in effect or hereafter to be enacted controlling privileged communications.

(c) Appearance of Impropriety or Unethical Conduct. A Florida Registered Paralegal should understand the attorney’s Rules of Professional Conduct and this code in order to avoid any action that would involve the attorney in a violation of the rules or give the appearance of professional impropriety. It is the obligation of the Florida Registered Paralegal to avoid conduct that would cause the lawyer to be unethical or even appear to be unethical, and loyalty to the lawyer is incumbent upon the Florida Registered Paralegal.

(d) Prohibited Conduct. A Florida Registered Paralegal should not:

(1) establish attorney-client relationships, accept cases, set legal fees, give legal opinions or advice, or represent a client before a court or other tribunal, unless authorized to do so by the court or tribunal;

(2) engage in, encourage, or contribute to any act that could constitute the unlicensed practice of law;

(3) engage in the practice of law;

(4) perform any of the duties that attorneys only may perform nor do things that attorneys themselves may not do; or

(5) act in matters involving professional legal judgment since the services of an attorney are essential in the public interest whenever the exercise of such judgment is required.

(e) Performance of Services. A Florida Registered Paralegal must act prudently in determining the extent to which a client may be assisted without the presence of an attorney. A Florida Registered Paralegal may perform services for an attorney in the representation of a client, provided:

(1) the services performed by the paralegal do not require the exercise of independent professional legal judgment;

(2) the attorney is responsible for the client, maintains a direct relationship with the client, and maintains control of all client matters;

(3) the attorney supervises the paralegal;

(4) the attorney remains professionally responsible for all work on behalf of the client and assumes full professional responsibility for the work product, including any actions taken or not taken by the paralegal in connection therewith; and

(5) the services performed supplement, merge with, and become the attorney's work product.

(f) Competence. A Florida Registered Paralegal shall work continually to maintain integrity and a high degree of competency throughout the legal profession.

(g) Conflict of Interest. A Florida Registered Paralegal who was employed by an opposing law firm has a duty not to disclose any information relating to the representation of the former firm's clients and must disclose the fact of the prior employment to the employing attorney.

(h) Reporting Known Misconduct. A Florida Registered Paralegal having knowledge that another Florida Registered Paralegal has committed a violation of this chapter or code shall inform The Florida Bar of the violation.

Added November 15, 2007, effective March 1, 2008, (SC06-1622), (969 So.2d 360); amended July 7, 2011, effective October 1, 2011 (SC10-1968).

20-8. REVOCATION OF REGISTRATION

The following rules and procedures shall apply to complaints against Florida Registered Paralegals:

Added November 15, 2007, effective March 1, 2008, (SC06-1622), (969 So.2d 360).

RULE 20-8.1 PARALEGAL COMMITTEES

There shall be paralegal committees as are herein provided, each of which shall have the authority and jurisdiction required to perform the functions hereinafter assigned to the paralegal committee and which shall be constituted and appointed as follows:

(a) District Paralegal Committees. There shall be at least 1 paralegal committee for each appellate district of this state and as many more as shall be found desirable by the board. Such committees shall be continuing bodies notwithstanding changes in membership, and they shall have jurisdiction and the power to proceed in all matters properly before them.

(b) Membership, Appointment, and Eligibility. Each district paralegal committee shall consist of not fewer than 3 members, at least 1 of whom is a Florida Registered Paralegal and at least 1 of whom is a member of The Florida Bar. Members of district paralegal committees shall be nominated by the member of the board designated to review the actions of the committee and appointed by the board. All appointees shall be of legal age and shall be residents of the district or have their principal office in the district. For each district paralegal committee there shall be a chair designated by the designated reviewer of that committee. A vice-

chair and secretary may be designated by the chair of each district committee.

(c) Terms. The terms of the members shall be for 3 years from the date of administration of the oath of service on the district paralegal committee or until such time as their successors are appointed and qualified. Continuous service of a member shall not exceed 6 years. A member shall not be reappointed for a period of 3 years after the end of the member's second term provided, however, the expiration of the term of any member shall not disqualify such member from concluding any investigation or participating in the disposition of cases that were pending before the committee when the member's term expired.

(d) Disqualification. No member of a district paralegal committee shall perform any district paralegal committee function when that member:

(1) is related by blood or marriage to the complainant or respondent;

(2) has a financial, business, property, or personal interest in the matter under consideration or with the complainant or respondent;

(3) has a personal interest that could be affected by the outcome of the proceedings or that could affect the outcome; or

(4) is prejudiced or biased toward either the complainant or the respondent.

Upon notice of the above prohibitions, the affected members should recuse themselves from further proceedings. The district paralegal committee chair shall have the power to disqualify any member from any proceeding in which any of the above prohibitions exists and is stated of record or in writing in the file by the chair.

(e) Removal. Any member may be removed from service by the designated reviewer of that committee or by the board.

(f) District Paralegal Committee Meetings. District paralegal committees should meet at regularly scheduled times, not less frequently than quarterly each year, and either the chair or vice-chair may call special meetings.

Added November 15, 2007, effective March 1, 2008, (SC06-1622), (969 So.2d 360).

RULE 20-8.2 DUTIES AND AUTHORITY

It is the duty of the district paralegal committees to receive and evaluate complaints against Florida Registered Paralegals. The district paralegal committees shall have the authority to remove or revoke an individual's registration as a Florida Registered Paralegal in accordance with the procedures set forth elsewhere in this chapter. A registration certificate issued pursuant to these rules may be suspended or revoked for any of the following reasons:

(a) conviction of a felony or of a misdemeanor involving moral turpitude, dishonesty, or false statement;

(b) fraud, dishonesty, or corruption that is related to the functions and duties of a Florida Registered Paralegal;

(c) gross incompetence or unprofessional or unethical conduct;

(d) willful, substantial, or repeated violation of any duty imposed by statute, rule, or order of court;

(e) fraud or misrepresentation in obtaining or renewing registration status;

(f) noncompliance with continuing education requirements;

(g) nonpayment of renewal fees; or

(h) violation of the Code of Ethics and Responsibility set forth elsewhere in these rules.

Added November 15, 2007, effective March 1, 2008, (SC06-1622), (969 So.2d 360).

CHAPTER 4. RULES OF PROFESSIONAL CONDUCT

RULE 4-5.3 RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS

(a) Use of Titles by Nonlawyer Assistants. A person who uses the title of paralegal, legal assistant, or other similar term when offering or providing services to the public must work for or under the direction or supervision of a lawyer or law firm.

(b) Supervisory Responsibility. With respect to a nonlawyer employed or retained by or associated with a lawyer or an authorized business entity as defined elsewhere in these Rules Regulating The Florida Bar:

(1) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, must make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

(2) a lawyer having direct supervisory authority over the nonlawyer must make reasonable efforts to ensure that the person's

conduct is compatible with the professional obligations of the lawyer; and

(3) a lawyer is responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if the lawyer:

(A) orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(B) is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(c) Ultimate Responsibility of Lawyer. Although paralegals or legal assistants may perform the duties delegated to them by the lawyer without the presence or active involvement of the lawyer, the lawyer must review and be responsible for the work product of the paralegals or legal assistants.

Comment

Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals such as paralegals and legal assistants. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client. A lawyer should also consider safeguards when assistants use technologies such as generative artificial intelligence. The measures employed in supervising nonlawyers should take account of the level of their legal training and the fact that they are not subject to professional discipline. If an activity requires the independent judgment and participation of the lawyer, it cannot be properly delegated to a nonlawyer employee.

Subdivision (b)(1) requires lawyers with managerial authority within a law firm to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that nonlawyers in the firm and nonlawyers outside the firm who work on firm matters act in a way compatible with the professional obligations of the lawyer. See comment to rule 4-1.1 (retaining lawyers outside the firm) and comment to rule 4-5.1 (responsibilities with respect to lawyers within a firm). Subdivision (b)(2) applies to lawyers who have supervisory authority over nonlawyers within or outside the firm. Subdivision (b)(3) specifies the circumstances in which a lawyer is responsible for conduct of nonlawyers within or outside the firm that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer.

Nothing provided in this rule should be interpreted to mean that a nonlawyer may have any ownership or partnership interest in a law firm, which is prohibited by rule 4-5.4. Additionally, this rule does not permit a lawyer to accept employment by a nonlawyer or group of nonlawyers, the purpose of which is to provide the supervision required under this rule. This conduct is prohibited by rules 4-5.4 and 4-5.5.

Nonlawyers Outside the Firm

A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services to the client. Examples include the retention of an investigative or paraprofessional service, hiring a document management company to create and maintain a database for complex litigation, sending client documents to a third party for printing or scanning, using generative artificial intelligence, and using an Internet-based service to store client information. When using these services outside the firm, a lawyer must make reasonable efforts to ensure that the services are provided in a manner that is compatible with the lawyer's professional obligations. The extent of this obligation will depend on the circumstances, including the education, experience and reputation of the nonlawyer; the nature of the services involved; the terms of any arrangements concerning the protection of client information; and the legal and ethical environments of the jurisdictions in which the services will be performed, particularly with regard to

confidentiality. See also rules 4-1.1 (competence), 4-1.2 (allocation of authority), 4-1.4 (communication with client), 4-1.6 (confidentiality), 4-5.4 (professional independence of the lawyer), and 4-5.5 (unauthorized practice of law). When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility for monitoring as between the client and the lawyer. See Rule 1.2. When making this allocation in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these rules.

Amended July 23, 1992, effective January 1, 1993 (605 So.2d 252); amended April 25, 2002 (820 So.2d 210); amended March 23, 2006, effective May 22, 2006 (933 So.2d 417); amended June 11, 2015, effective October 1, 2015 (167 So.3d 412).

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The 2026 Florida Statutes

[Title XXXII](#)

[Chapter 454](#)

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REGULATION OF PROFESSIONS AND OCCUPATIONS

ATTORNEYS AT LAW

454.23 Penalties.—Any person not licensed or otherwise authorized to practice law in this state who practices law in this state or holds himself or herself out to the public as qualified to practice law in this state, or who willfully pretends to be, or willfully takes or uses any name, title, addition, or description implying that he or she is qualified, or recognized by law as qualified, to practice law in this state, commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

History.—s. 21, ch. 10175, 1925; CGL 8133; s. 384, ch. 71-136; s. 1, ch. 74-128; s. 184, ch. 97-103; s. 1, ch. 2004-287.

Florida Administrative Code
Chapter 28-106 - DECISIONS DETERMINING SUBSTANTIAL INTERESTS
Part I - GENERAL PROVISIONS

**28-106 : DECISIONS DETERMINING SUBSTANTIAL INTERESTS - Florida Administrative Rules, Law,
Code, Register - FAC, FAR, eRulemaking**

28-106.105 Appearances.

(1) Counsel or qualified representatives who file a request for a hearing involving disputed issues of material fact with the agency have entered an appearance in the proceeding and shall be deemed counsel or qualified representative of record. All others who seek to appear shall file a notice of appearance as soon as possible.

(2) Service on counsel of record or on a qualified representative shall be the equivalent of service on the party represented.

(3) On written motion served on the party represented and all other parties of record, the presiding officer shall grant counsel of record and qualified representatives leave to withdraw for good cause shown. The motion shall contain the address, any e-mail address, and telephone number of the party represented.

(4) A qualified representative who has filed an initial pleading or notice of appearance for a party shall be deemed the qualified representative of record until the presiding officer makes the determination required by Rule 28-106.106, F.A.C.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 2-5-13.

28-106.106 Who May Appear; Criteria for Qualified Representatives.

(1) Any party who appears in any agency proceeding has the right, at his or her own expense, to be represented by counsel or by a qualified representative. Counsel means a member of The Florida Bar or a law student certified pursuant to Chapter 11 of the Rules Regulating The Florida Bar. An attorney disbarred in any state shall not be authorized to serve as a qualified representative.

(2)(a) A party seeking representation by a qualified representative shall file a written request with the presiding officer as soon as practicable, but no later than any pleading filed by the person seeking to appear on behalf of the party. The request shall identify the name, address, e-mail address, and telephone number of the representative and shall state that the party is aware of the services which the representative can provide, and is aware that the party can be represented by counsel at the party's own expense and has chosen otherwise.

(b) The presiding officer shall consider whether the representative is qualified to appear in the administrative proceeding and capable of representing the rights and interests of the party. The presiding officer may consider a representative's sworn affidavit setting forth the representative's qualifications.

(c) The presiding officer shall determine the qualifications of the representative within a reasonable time after the request required by paragraph (a) is filed.

(3) The presiding officer shall authorize the representative to appear if the presiding officer is satisfied that the representative has the necessary qualifications to responsibly represent the party's interests in a manner which will not impair the fairness of the proceeding or the correctness of the action to be taken.

(4) The presiding officer shall make a determination of the qualifications of the representative in light of the nature of the proceedings and the applicable law. The presiding officer shall consider:

(a) The representative's knowledge of jurisdiction;

(b) The representative's knowledge of the Florida Rules of Civil Procedure relating to discovery in an administrative proceeding;

(c) The representative's knowledge regarding the rules of evidence, including the concept of hearsay in an administrative proceeding;

(d) The representative's knowledge regarding the factual and legal issues involved in the proceedings; and

(e) The representative's knowledge of and compliance with the Standards of Conduct for Qualified Representatives, Rule 28-106.107, F.A.C.

(5) If the presiding officer determines a representative is not qualified, the reasons for the decision shall be in writing and included in the record.

28-106.107 Standards of Conduct for Qualified Representatives.

The following standards of conduct are mandatory for all qualified representatives.

- (1) A representative shall exercise due diligence to insure that any motion or pleading is filed and argued in good faith.
- (2) A representative shall advise the client to obey the law.
- (3) A representative shall not:
 - (a) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
 - (b) Engage in conduct that is prejudicial to the administration of justice;
 - (c) Handle a matter which the representative knows or should know that he or she is not competent to handle;
 - (d) Handle a legal or factual matter without adequate preparation;
 - (e) Communicate, or cause another to communicate, as to the merits of the proceeding with the presiding officer except on the record or in writing with a copy promptly delivered to the opposing party; or
 - (f) Communicate with an adverse party regarding matters at issue in the administrative proceeding where the representative knows that the adverse party is represented by an attorney or other qualified representative.
- (4) Failure to comply with these provisions shall authorize the presiding officer to disqualify the representative appearing in the administrative proceeding.

UPL Cases in Florida:

Paralegals:

<https://www.floridabar.org/the-florida-bar-news/paralegal-clinic-engaged-in-upl/>

<https://www.studicata.com/case-briefs/case/florida-bar-v-miravalle>

<https://caselaw.findlaw.com/court/fl-supreme-court/1218998.html>

<https://law.justia.com/cases/florida/supreme-court/1996/85606-0.html>

<https://caselaw.findlaw.com/court/fl-supreme-court/1094570.html>

<https://law.justia.com/cases/florida/supreme-court/1993/77871-0.html>

Attorneys:

Thomas Rieger – Public Reprimand

<https://www.floridabar.org/public/acap/disc-docs/?icn=202210214&member=64483>

Eduardo Rodriguez – Public Reprimand

<https://www.floridabar.org/public/acap/disc-docs/?icn=202430160&member=165654>

Dawn Marie Calache – Public Reprimand

<https://www.floridabar.org/public/acap/disc-docs/?icn=202430101&member=123760>

Brooks Richard Siegel – Public Reprimand

<https://www.floridabar.org/public/acap/disc-docs/?icn=202370470&member=127202>

Divya Khullar – 2-Year Suspension

<https://www.floridabar.org/public/acap/disc-docs/?icn=201850500&member=101116>

Rhonda Raulerson Portwood – 90-Day Suspension

<https://www.floridabar.org/public/acap/disc-docs/?icn=202330411&member=615455>

Susan Rachel Torres – Public Reprimand

<https://www.floridabar.org/public/acap/disc-docs/?icn=202170190&member=91236>

Lance Thomas Denha – Admonishment

<https://www.floridabar.org/public/acap/disc-docs/?icn=202250573&member=32691>

Gordon Thomas Nicol – Disciplinary Revocation

<https://www.floridabar.org/public/acap/disc-docs/?icn=202300046&member=818320>

Lisa A. Musial – Public Reprimand

<https://www.floridabar.org/public/acap/disc-docs/?icn=202010301&member=495972>

Consumer Information: Filing an Unlicensed Practice of Law Complaint



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A Word About Confidentiality and Immunity



This pamphlet explains how and where consumer allegations regarding possible unlicensed practice of law (UPL) may be filed. This pamphlet also explains The Florida Bar unlicensed practice of law (UPL) system, established by the Supreme Court of Florida to protect the public against harm caused by unlicensed individuals practicing law. The basic procedures outlined here are designed to prevent misunderstanding.

Who Regulates the Conduct of Nonlawyers When They Are Acting Like Lawyers?

The Constitution of the State of Florida gives the Supreme Court of Florida the power to regulate the conduct of attorneys. Through this constitutional grant of authority, the Supreme Court of Florida has the inherent authority to regulate and prevent the practice



of law by individuals who are not licensed to practice law in Florida. The court created The Florida Bar and requires all lawyers to be members of that organization which funds the total cost of the lawyer discipline system and the unlicensed practice of law system.

Unlicensed Practice of Law (UPL) committees, of which one third of the members are not lawyers, investigate instances of unlicensed practice of law. Florida Bar prosecutions are filed with the Supreme Court of Florida and trials are held before judges, called referees, appointed by the court. The Florida Bar acts as prosecutor in UPL cases. The Florida Bar cases are civil in nature.

Engaging in the unlicensed practice of law in Florida is also a crime. It is a third degree felony. For this reason, the State Attorney also has the power to bring criminal charges against an individual for practicing law without a license.

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What is the Purpose of the Investigation and Prosecution of the Unlicensed Practice of Law?

The purpose of The Florida Bar unlicensed practice of law system is to protect the public. The Supreme Court of Florida can prevent an individual from continuing to engage in the unlicensed practice of law by issuing a civil injunction. UPL committees can also get the individual to agree to stop practicing law by having them sign a cease and desist affidavit.

The Florida Bar, as a prosecutorial agency, does not and cannot give individual legal service or advice to any person making allegations.

The Florida Bar has no authority to review a court decision on a particular matter and the Bar's UPL system should never be used as a substitute for an appeal of such cases.

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Where Do I File a Complaint?

You may make allegations regarding the unlicensed practice of law by contacting The Florida Bar's UPL office in your area. The **UPL department has offices** in Tallahassee, Ft. Lauderdale, Miami, Orlando, and Tampa.

Your complaint must be in writing, preferably on a Florida Bar **UPL Complaint Form**. If a Bar form is not used, the following language must appear before your signature: "Under penalties of perjury, I declare that I have read the foregoing document and that to the best of my knowledge and belief the facts stated in it are true."

When filing a complaint, tell the Bar your name, address, and phone number as well as the name, address, and phone number of the nonlawyer, if you have that information. Then try to set forth the facts on which your allegations are based. Attach copies of any court papers, documents, letters, or other materials that pertain to your allegations when you write the Bar office. Please do not send the original documents. Your complaint and the documents should not exceed 25 pages.

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What Happens After I File a Complaint?

All matters received by The Florida Bar are reviewed by Bar UPL Counsel to determine if The Florida Bar has the authority to investigate the allegations. If The Florida Bar has the authority to investigate, the inquiry is considered as a complaint. The complaint may be referred to a local circuit committee for investigation or may be investigated by UPL Counsel. The committee will be located in the circuit where the accused resides or does business or where the alleged conduct took place.

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Will the Nonlawyer Know About My Complaint?

Probably. The nonlawyer is usually sent a copy of your complaint during the course of the investigation. Additionally, if the nonlawyer asks who complained, your name will be given. ▲

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What Will it Cost Me?

No cost or fee is charged for filing an inquiry against a nonlawyer. You may, however, be required to devote some of your time to attending UPL committee hearings and testifying at trial.

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What is a UPL Committee?

UPL committees of The Florida Bar are made up of volunteer members in your community, at least one-third of whom are nonlawyers. Each of Florida's 20 judicial circuits have at least one such committee.

The local UPL committee investigates complaints and decides whether the evidence shows that an individual practiced law without a license.

The UPL committee may decide whether a trial before a judge is necessary and may make that decision with or without a hearing on your complaint. If the individual involved is present before the UPL committee, you may be given the opportunity to be there.

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What Kinds of Actions Can be Taken Against the Nonlawyer?

If the local UPL committee determines that the conduct does not involve the unlicensed practice of law, that it is an isolated incident which will not be repeated and will not result in a likelihood of future public harm, that the individual is no longer in Florida or that the complaining party does not wish to cooperate with the investigation, the local UPL committee may close the case.



If the local UPL committee determines that the individual did engage in the unlicensed practice of law and that the activity is likely to continue, the committee may request that the individual sign a cease and desist affidavit. Although the nonlawyer does not have to acknowledge that he or she engaged in the conduct in the affidavit, the nonlawyer will acknowledge that the conduct is the unlicensed practice of law and will agree to refrain from engaging in the conduct in the future.

Alternatively, the local UPL committee can recommend prosecution. Prosecution is before the Supreme Court of Florida and seeks a civil injunction which orders the nonlawyer to stop engaging in UPL. The Bar can also bring an action before the Supreme Court of Florida for indirect criminal contempt.

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Is There a Trial?

If the local UPL committee recommends litigation and litigation before the Supreme Court of Florida is approved, UPL Counsel will file a formal complaint against the nonlawyer before the Supreme Court of Florida. The Supreme Court then appoints a judge as a referee to hold a trial on the complaint.

The referee will hear all relevant evidence, which may include your testimony, that of the nonlawyer, and any other witnesses. The referee then makes findings of fact and files a report and recommendations with the Supreme Court of Florida.

The Supreme Court reviews the trial record, referee's report, and recommendations. It has final authority to determine guilt in an action for indirect criminal conduct, and to issue an order enjoining the nonlawyer from further activity.

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What Can I Expect?

- You can expect that your inquiry will receive The Florida Bar's prompt and full attention.



- You can expect that every attempt will be made to deal with your inquiry in a manner which is fair to both you and the individual about whom you inquire.
- You can expect to receive written notice of the committee to whom your complaint has been sent (if your complaint is referred to a committee) as well as notice of the final disposition.

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What Shouldn't I Expect?

Don't expect your allegation to be decided just because of what you claim to have happened; nor, in fairness to you, can the nonlawyer about whom you inquire expect the matter to be decided just on the basis of his or her version of what happened. The final decision must depend upon the weight of the available and relevant evidence and testimony.

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A Word About Confidentiality and Immunity

Once an inquiry is reviewed and a file is opened, the fact that a complaint is pending and the status of the complaint can be disclosed. Once the matter is closed or a recommendation is accepted by the statewide Standing Committee, the matter becomes public information and the part of the file defined as the UPL record is available to anyone who wishes to see it.

You and witnesses are not prohibited from talking about your problem with the nonlawyer or revealing that you have made an inquiry with The Florida Bar. You may also give others copies of any documents you give to or receive from The Florida Bar or the nonlawyer involved.

Because inquiries and complaints are not confidential, you do not have absolute immunity from suit for filing your inquiry. The general law of libel and slander applies. Regrettably, The Florida Bar cannot pre-review your inquiry to tell you if you have a good case. Generally, you cannot be successfully sued if you do not act in bad faith or with  malice. If you are unsure, you should seek independent legal advice.

UPL BRANCH OFFICES

The **UPL department has offices** in Tallahassee, Ft. Lauderdale, Miami, Orlando, and Tampa.

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The material in this pamphlet represents general legal advice. Since the law is continually changing, some provisions in this pamphlet may be out of date. It is always best to consult an attorney about your legal rights and responsibilities regarding your particular case.

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