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INTRODUCTION

The interstate practice of law in the United States has rapidly increased in recent years.¹ Today, the operations of many businesses extend across the country.² Individuals have also become more mobile.³ As a result, many attorneys have found it necessary to practice law in more than one state.⁴ In order to practice law in another state, attorneys must obtain authorization.⁵ Unauthorized practice of law by an attorney is a violation of the Model Code of Professional Responsibility⁶ and it can have some very serious con-

² See generally Morris, State Borders: Unnecessary Barriers to Effective Law Practice, 53 A.B.A. J. 530, 531 (1967) (demand for interstate bar because of the increase in national business relationships).
³ Much of clients’ business crosses state lines. People are mobile, moving from state to state. Many metropolitan areas cross state lines. It is common today to have a single economic and social community involving more than one state. The business of a single client may involve legal problems in several states.
⁴ ABA Comm. on Professional Ethics, Formal Op. 316 (1967); see also MODEL CODE OF PROFESSIONAL RESPONSIBILITY (“Model Code”) EC 3-9 (1980).
⁵ See generally Brakel & Loh, Regulating the Multistate Practice of Law, 50 WASH. L. REV. 699 (1975). Brakel & Loh noted that “multistate or interstate practice by attorneys in this country is an expanding phenomenon.” Id.; see also Note, supra note 1, at 1711. The note discusses the many reasons why attorneys are increasingly “required” to cross state lines in their practice of law.
⁶ E.g., ILL. REV. STAT. ch. 13, ¶ 1 (1983). The statute states in part that “No person shall be permitted to practice as an attorney or counselor at law within this State without having previously obtained a license for that purpose from the Supreme Court of this State.”
⁷ Disciplinary Rule (“DR”) 3-101 states:
(A) A lawyer shall not aid a non-lawyer in the unauthorized practice of law.
(B) A lawyer shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.
MODEL CODE DR 3-101. Ethical Consideration (“EC”) 3-9 states:
Authority to engage in the practice of law conferred in any jurisdiction is not per se a grant of the right to practice elsewhere, and it is improper for a lawyer to engage in practice where he is not permitted by law or by court order to do so.

MODEL CODE EC 3-9. The Model Rules provide:
sequences to the out-of-state attorney.  

Every state establishes its own requirements for an out-of-state attorney to become authorized to practice law in the jurisdiction. Illinois provides out-of-state attorneys with several alternatives to obtain the authorization necessary to practice law in Illinois. Nevertheless, an out-of-state attorney seeking to enter Illinois to conduct activities involving no court appearance will find that the Illinois rules lack any practical method to grant such authorization. Consequently, the right to counsel of Illinois citizens is

“A lawyer shall not:
(a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or
(b) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.” MODEL RULES OF PROFESSIONAL CONDUCT (“MODEL RULES”) Rule 5.5 (1983).

7. See ILL. REV. STAT. ch. 13, § 1 (1983) (“Any person practicing, charging or receiving fees for legal services within this State, either directly or indirectly, without being licensed to practice as herein required, is guilty of contempt of court and shall be punished accordingly.”); ILL. REV. STAT. ch. 38, §§ 32-35 (1983) (“A person who falsely represents himself to be an attorney authorized to practice... commits a class B misdemeanor.”); see also People v. Peters, 10 Ill. 2d 577, 141 N.E.2d 9 (1957) (punishment of fine of $500 and confinement in county jail for 90 days, imposed on lawyer convicted of unauthorized practice of law, was held not to be excessive.); People ex rel. Chicago Bar Ass'n v. Barasch, 338 Ill. App. 169, 86 N.E.2d 868 (1949) (where former member of bar was convicted of practicing law without a license, 60-day jail sentence and a fine of $200 and costs was not an excessive punishment), aff'd, 406 Ill. 253, 94 N.E.2d 148 (1950).

8. See Leis v. Flint, 439 U.S. 438 (1979). “Since the founding of the Republic, the licensing and regulation of lawyers has been left exclusively to the states and the District of Columbia within their respective jurisdictions. The states prescribe the qualifications for admission to practice and the standards of professional conduct. They also are responsible for the discipline of lawyers.” Id. at 442; see also Saier v. State Bar of Mich., 293 F.2d 756, 759 (6th Cir. 1961) (“license to practice law, the continuation of such license, regulation of the practice and the procedure for disbarment and discipline are all matters within the province of an individual state”); Dixon v. Georgia Indigent Legal Serv., Inc. 388 F. Supp. 1156, 1162 (S.D. Ga. 1974) (regulation of the practice of law in state courts within state's legislative and judicial province.)


10. See infra text accompanying notes 77-91. Rules of law are deficient if they are not just, understandable, and responsive to the needs of society. If a lawyer believes that the existence or absence of a rule of law, substantive or procedural, causes or contributes to an unjust result, he should endeavor by lawful means to obtain appropriate changes in the law. He should encourage the simplification of laws and the repeal or amendment of laws that are outmoded. Likewise, legal procedures should be improved whenever experience indicates a change is needed. MODEL CODE EC 8-2. “There are few great figures in the history of the Bar who have not concerned themselves with the reform and improvement of the law. The special obligation of the profession with respect to legal reform rests on considerations too obvious to require enumeration. Certainly it is the lawyer who has both the best chance to know when the law is working badly and the
often restricted by the unavailability of out-of-state counsel.\textsuperscript{11} The authorization requirements are also, at times, unfair to out-of-state attorneys themselves when they seek to practice law in Illinois on a very limited basis.\textsuperscript{12} Further, the restrictions on out-of-state attorneys are difficult to enforce, and therefore encourage noncompliance.\textsuperscript{13}

This note reviews the justifications on which states have relied in restricting the practice of law by out-of-state attorneys. It then discusses the restrictions placed on out-of-state attorneys wishing to practice law in Illinois on a limited basis, and examines the burdens current Illinois law places on the interstate practice of law. Next, it illustrates the ethical predicament in which out-of-state attorneys are placed when they practice law on an interstate basis.

\textsuperscript{11} Any legal work done before the case is actually filed is considered to be out-of-court practice of law. It appears that no state provides a method for out-of-state attorneys' out-of-court practice of law. \textit{See}, e.g., CAL. CIVIL AND CRIMINAL CODE R. 983 (West 1984) (a non-member of the State Bar of California who is a member in good standing of and eligible to practice before any United States court or of the highest court in any state, and who has been in a court of this state, may in the discretion of such court be permitted to appear as counsel pro hac vice); MICH. CT. R. 15 § 2 (R. Concerning State Bar of Mich.) (any person who is duly licensed to practice in another state may be permitted to engage in the trial of a specific case in a court or before an administrative tribunal in this state); IOWA CODE ANN. § 610.13 (West 1984) ("Any member of the bar of another state, actually engaged in any cause or matter pending in any court of this state, may be permitted by such court to appear in and conduct such cause or matter"). Wis. S. Ct. R. ch. 10 § 3(4) (judge in this state may allow a nonresident counsel to appear in his or her court and participate in a particular action or proceeding); N.Y. Ct. App. R. 520.9(e) (attorney from another state may be admitted pro hac vice in the discretion of the court of record, to participate in the trial or argument of any particular cause in which the attorney may be for the time being employed). \textit{See also} Smith, \textit{Time for a National Practice of Law Act}, 64 A.B.A. J. 557 (1978). Smith, former president of the American Bar Association, noted that "the present rules which require the passing of a bar examination and admission to the bar in each state in which lawyers wish to practice regularly are an intolerable and impractical restriction of the present-day practice of law, on the development of needed national law practice, and on the legal needs of national, commercial, financial, and industrial business entities." \textit{Id.}

\textsuperscript{12} \textit{Id.; see infra} text accompanying notes 96-102. This note is limited to examining Illinois' regulations on admitting out-of-state attorneys to Illinois state courts. This note should, however, also have a substantial impact on admission into federal courts in Illinois because federal courts often adopt state admission rules. \textit{See} Brakel & Loh, \textit{supra} note 4, at 717-18. Brakel & Loh noted that in the absence of a unified or uniform federal bar comparable to state bars, each federal court has its own admission standards. The United State Supreme Court and Federal Courts of Appeals typically admit attorneys upon a showing of authorization to practice before the highest court of any state. Federal district court rules also give similar deference to state admission rules. About fifteen district courts offer general admission to any attorney. Forty-five require membership in the bar of the state where the district court sits. \textit{Id.}

\textsuperscript{13} \textit{See infra} text accompanying notes 96-106.
while still trying to follow the regulations. This note recommends that Illinois recognize the increase in interstate practice of law and update its rules on admission of out-of-state attorneys in order to effectively protect Illinois citizens. A model rule will be proposed for an authorization scheme for out-of-state attorneys who want to practice law in Illinois. The rule proposed would allow an out-of-state attorney to practice in Illinois on a limited basis provided that the attorney's home state accorded a similar privilege to Illinois attorneys.

BACKGROUND

Each state has the authority to determine who shall practice law within its boundaries. No absolute right to practice law in a state exists. The only limitation on the states' discretion is that the method of selection must not violate a right secured by the fourteenth amendment to the Constitution.

Because the attorney is characterized as an officer of the court, admission to practice law is generally controlled by the supreme


15. Cf. Schware v. Board of Bar Examiners, 353 U.S. 232, 239 n.5. (1957). The Court noted: "We need not enter into a discussion whether the practice of law is a 'right' or 'privilege'. Regardless of how the state's grant of permission to engage in this occupation is characterized, it is sufficient to say that a person cannot be prevented from practicing except for valid reasons. Certainly the practice of law is not a matter of the state's grace." Id.; see also People ex rel. Chicago Bar Ass'n v. Baker, 311 Ill. 66, 142 N.E. 554 (1924) (the right to practice law is not an absolute right).

16. E.g., Schware, 353 U.S. 232. "A state cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment." Id. at 238-39. For admission to the bar, a state can require high standards of qualification, such as good moral character or proficiency in its law, but any such qualification must have a rational connection to the applicant's fitness or capacity to practice law. Moreover, even when permissible standards are applied, a state cannot exclude an applicant when there is no basis for a finding that he or she fails to meet the standards or when the denial is invidiously discriminatory. Id. at 239. Recently, the Supreme Court has changed from the rational relationship test stated in Schware to a "substantial relationship" test. Supreme Court of New Hampshire v. Piper, 105 S. Ct. 1272 (1985). According to the Piper court, a state may discriminate against nonresident attorneys only where its reasons are substantial and the difference in treatment bears a close or substantial relationship to those reasons. Id. at 1279.
court of each state.\textsuperscript{17} The state supreme courts thus prescribe rules and regulations for the study of law and the admission of applicants to the practice of law.\textsuperscript{18} Traditionally, courts have been very reluctant to find a state regulation on the practice of law to be unconstitutional.\textsuperscript{19}

Most of the rules and regulations restricting an attorney's ability to practice law interstate were originally developed during the early 1900's.\textsuperscript{20} Interstate law problems were rare because society as a whole was not very mobile.\textsuperscript{21} States were usually justified in being cautious when an out-of-state attorney came into their jurisdiction to practice law, because an out-of-state attorney would often enter a state, take advantage of a client, and leave the state before anything could be done.\textsuperscript{22} Moreover, the virtual absence of an interstate discipline reporting system meant it was rare for one state to gain knowledge of an attorney's violations in other states.\textsuperscript{23}

\begin{itemize}
\item \textsuperscript{17} E.g., Bassi v. Langloss, 22 Ill. 2d 190, 194, 174 N.E.2d 682, 684 (1961) (Illinois Supreme Court has the inherent power to regulate the conduct of members of the legal profession); see also PROFESSIONAL DISCIPLINE FOR LAWYERS AND JUDGES, STANDARD 2.1 (1979). Standard 2.1 states: "Responsibility of State's Highest Court. Ultimate and exclusive responsibility within a state for the structure and administration of the lawyer discipline and disability system and the disposition of individual cases is within the inherent power of the highest court of the state."
\item \textsuperscript{18} E.g., In re Reynolds, 32 Ill. 2d 331, 205 N.E.2d 429 (1965). The Reynolds court noted that a state can require high standards of qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar, but any qualification must have a rational connection with the applicant's fitness or capacity to practice law. But see supra note 16 regarding the Piper decision.
\item \textsuperscript{19} See Comment, Commerce Clause Challenge to State Restrictions on Practice by Out-of-State Attorneys, 72 NW. U.L. REV. 737 (1977). In general, state restrictions against out-of-state attorneys have been upheld as legitimate exercises of the states' power to protect their citizens. These restrictions have been attacked under various constitutional provisions: right to travel, sixth amendment right to counsel, and fourteenth amendment guarantee of due process of the laws. Id. at 743 n.36. But see Piper, 105 S. Ct. at 1280-81, where the Supreme Court held that New Hampshire's residency requirement violated the privileges and immunities clause of article IV.
\item \textsuperscript{20} See, e.g., R. Burkett, Unauthorized Practice of Law and the Lawyer-Towards A Uniform Approach to Interstate Regulation of the Practice of Law 1 (1984) (the fundamental assumptions behind these rules are rooted in the legal and social realities of the roaring twenties) Robert Burkett is a former director of Unauthorized Practice Division of the State Bar of California and a past member of the ABA Standing Committee on Unauthorized Practice of the Law.
\item \textsuperscript{21} See Brakel, supra note 1, at 1. Brakel notes that multistate practice problems are increasing today in direct proportion to the increase in people's mobility.
\item \textsuperscript{22} Brakel also notes that many restrictions on multistate practice have their origin in the preconstitutional era. Many of these restrictions were framed against the background of the dated situation when lawyer mobility was suspect. Id.
\item \textsuperscript{23} AMERICAN BAR ASS'N SPECIAL COMM. ON EVALUATION OF DISCIPLINARY ENFORCEMENT, PROBLEMS AND RECOMMENDATIONS IN DISCIPLINARY ENFORCEMENT, "THE CLARK REPORT" (Final Draft 1970) [hereinafter cited as THE CLARK REPORT]. The committee acknowledged instances in which attorneys admitted to practice in several
An attorney suspended or disbarred in one state could practice law freely in another state.\textsuperscript{24} Another problem was the widely divergent substantive and procedural laws of the various states, which rendered the possession of a license to practice law in one state virtually irrelevant to the ability to effectively practice in another state.\textsuperscript{25}

For these reasons, states found it necessary to regulate the practice of law by out-of-state attorneys in order to protect their citizens. The restrictions were intended to ensure the competency of lawyers practicing within the state by requiring that the attorneys be familiar with the substantive laws and procedures of the state.\textsuperscript{26} The restrictions also allowed the state to discipline the out-of-state attorney by withdrawing his authorization to practice.\textsuperscript{27}

It is the duty of every attorney who plans to practice law in another state to obtain authorization by fulfilling all state requirements.\textsuperscript{28} The attorney whose practice of law frequently requires him to cross state lines is met with state regulations that are often very difficult to fulfill. Since these state requirements are often jurisdictions would be disbarred in one without any of the others becoming aware of it. The attorney would continue to practice in the other jurisdictions, although evidence existed to demonstrate his lack of fitness. \textit{Id.} at 156-57. The committee noted that these problems existed because there has been no systematic procedure by which disciplinary agencies are advised whenever attorneys are disciplined. \textit{Id.} at 158.

\textsuperscript{24} Indeed, this appeared to be true as late as 1970, when the Clark Report was issued. The committee gave numerous examples of how attorneys admitted to practice in several jurisdictions could continue to practice despite disbarment in one jurisdiction. \textit{Id.} at 156-58. The committee noted that some state disciplinary jurisdictions even fail to advise the federal courts sitting in the same geographical location of discipline imposed on an attorney who is a member of both the state and federal bars. \textit{Id.} at 157-58.

\textsuperscript{25} See generally \textit{Kalish, Pro Hac Vice Admission: A Proposal}, 1979 S. ILL. L.J. 367, 368 (substantive law among states varies less and less).

\textsuperscript{26} See Comment, supra note 19, at 744. "Restrictions have been justified as means to: (1) insure competency of lawyers practicing within state courts, (2) insure that the attorneys in their courts are familiar with the substantive law and procedures of the state, and (3) discipline attorneys by withdrawing authorization to practice." \textit{Id.}

\textsuperscript{27} \textit{Id.}; see also \textit{Undem v. State Bd. of Law Examiners}, 266 Ark. 683, 587 S.W.2d 563 (1979). In \textit{Undem}, the court noted:

\begin{quote}
The prohibition against engaging in the practice of law applies to all except those who are members of the Bar of the state of Arkansas. This is not only to insure professional competence, but is, in the public interest, to insure that public be not led to rely upon counseling, in matters of law, by those who are not answerable to the courts in this state for the manner in which they meet their professional obligations by compliance with standards of professional conduct imposed upon those engaging in practice in state.
\end{quote}

\textit{Id.} at 689, 587 S.W.2d at 569.

\textsuperscript{28} See supra note 5. See generally \textit{Hafter, Toward The Multistate Practice of Law Through Admission by Reciprocity}, 53 MISS. L.J. 1 (1983) (present state restrictions on admission of practicing attorneys constitute substantial barriers to multistate practice).
very burdensome on the attorney who only wants to practice in that state on a limited basis, some attorneys ignore the requirements and practice without any authorization.\textsuperscript{29} The American Bar Association has recognized these problems and has recommended that the legal profession discourage regulation that unreasonably imposes territorial limitations upon the right of a lawyer to handle the legal affairs of his client.\textsuperscript{30} It has also recommended that the legal profession discourage regulation that unreasonably imposes territorial limitation upon the opportunity of a client to obtain the services of a lawyer of his choice.\textsuperscript{31}

**DISCUSSION**

*Illinois’ Rules On Admission For Out-Of-State Attorneys*

An out-of-state attorney who wants to practice law in Illinois can obtain authorization to do so in one of three ways. First, the attorney can become licensed to practice in Illinois by a method known as “qualification on examination.”\textsuperscript{32} In order to obtain a license, the attorney must meet designated educational requirements\textsuperscript{33} and pass the examination administered by the Board of

\textsuperscript{29} R. Burkett, supra note 20, at 13. According to Burkett, “The multitude of corporate counsel practicing in jurisdictions in which they are not licensed raises serious unauthorized practice implications (assuming the jurisdictions do not specifically allow such practices). These highly distinguished men and women practicing law all around the country are committing misdemeanors each day they report to work.”

\textsuperscript{30} Model Code EC 3-9.

[The demands of business and the mobility of our society pose distinct problems in the regulation of the practice of law by the states. In furtherance of the public interest, the legal profession should discourage regulation that unreasonably imposes territorial limitations upon the right of a lawyer to handle the legal affairs of his client or upon the opportunity of a client to obtain the services of a lawyer of his choice in all matters including the presentation of a contested matter in a tribunal before which the lawyer is not permanently admitted to practice.]

\textsuperscript{31} Id.

\textsuperscript{32} Illinois Supreme Court Rule 704 (Qualification on Examination) states:

(a) Any person who meets the educational requirements set forth in Rule 703 may make application to the Board of Law Examiners for admission on examination.

(b) Application shall be in such form as the board shall prescribe and shall be accompanied with proof that the applicant meets the requirements of Rule 701, together with proof of his educational qualifications. In the event the proof shall be satisfactory to the board, the applicant shall be admitted to examination.


\textsuperscript{33} Illinois Supreme Court Rule 703 (Educational Requirements) states:
Law Examiners.\textsuperscript{34}

Alternatively, an attorney may obtain a license to practice law without examination by "qualification on foreign license," but he must fulfill certain conditions.\textsuperscript{35} The attorney must be able to meet certain educational qualifications\textsuperscript{36} and he must have resided and actively and continuously practiced law in such other jurisdiction for at least five of the seven years immediately prior to applying for admission in Illinois.\textsuperscript{37} The attorney must also establish that he is an actual resident of the State of Illinois and that upon admission to the bar he will actively and continuously engage in the practice of law in Illinois.\textsuperscript{38} The attorney must receive from the Committee on Character and Fitness its certificate of good moral character and general fitness to practice law.\textsuperscript{39} "Qualification on foreign li-

\textsuperscript{34}See supra note 33.
\textsuperscript{35}Illinois Supreme Court Rule 705 (Qualification on Foreign License) states: "Any person who has been admitted to practice in the highest court of law in any other state or territory of the United States or the District of Columbia may make application to the Board of Law Examiners for admission to the bar, without academic qualification . . . ." ILL. SUP. CT. R. 705, ILL. REV. STAT. ch. 110A, ¶ 705 (1983).
\textsuperscript{36}Illinois Supreme Court Rule 705(a) states: "The educational qualifications of the applicant are such as would entitle him to write the academic qualification examination in this State at the time he seeks admission . . . ." ILL. SUP. CT. R. 705(a), ILL. REV. STAT. ch. 110A, ¶ 705(a) (1983).
\textsuperscript{37}ILL. SUP. CT. R. 705(a), ILL. REV. STAT. ch. 110A, ¶ 705(a) (1983).
\textsuperscript{38}ILL. SUP. CT. R. 705(d), ILL. REV. STAT. ch. 110A, ¶ 705(d) (1983).
\textsuperscript{39}ILL. SUP. CT. R. 705(e), ILL. REV. STAT. ch. 110A, ¶ 705(e) (1983).
license” is not available to any attorney who has taken and failed the bar examination in Illinois.40

Finally, an attorney can obtain temporary authorization to practice law in Illinois by admission pro hac vice.41 Under Illinois Supreme Court Rule 707, the courts have the discretion to allow an attorney to appear before them in the trial or argument of any particular cause in which he is employed.42

Unauthorized Practice of Law in Illinois

An out-of-state attorney who does not obtain a license or admission pro hac vice is not authorized to practice law in Illinois.43 Although the legal profession has been reluctant to adopt a single, specific definition of the practice of law,44 Illinois courts have adopted one definition as being substantially correct.45 Under Illinois' definition, the practice of law includes not only court appearances in connection with litigation, but also services rendered out of court, such as the giving of advice or the rendering of any services which require the use of legal skill or knowledge.46 Because

41. Illinois Supreme Court Rule 707 (Foreign Attorneys in Isolated Cases) states: Anything in these rules to the contrary notwithstanding, an attorney and counselor-at-law from any other jurisdiction in the United States, or foreign country, may in the discretion of any court of this State be permitted to participate before the court in the trial or argument of any particular cause in which, for the time being, he is employed. ILL. SUP. CT. R. 707, ILL. REV. STAT. ch. 110A, ¶ 707 (1983).
42. Id.
43. See supra note 5.
44. MODEL CODE EC 3-5. EC 3-5 states: Functionally, the practice of law relates to the rendition of services for others that call for the professional judgment of a lawyer. The essence of the professional judgment of a lawyer is his educated ability to relate the general body and philosophy of law to a specific legal problem of a client; and thus, the public interest will be better served if only lawyers are permitted to act in matters involving professional judgment . . .
this definition can often be difficult to apply to a particular fact situation, an out-of-state attorney must be cautious in his actions in Illinois to avoid engaging in the unauthorized practice of law.

*Lozoff v. Shore Heights, Ltd.*,47 is an example of an attorney's unauthorized practice of law in Illinois. Lozoff, an attorney licensed in Wisconsin, but not in Illinois, was hired by Shore Heights, an Illinois company, to draft and negotiate a contract with another Illinois company for the purchase of real estate located in Illinois.48 Shore Heights entered into a written agreement with Lozoff, promising to pay attorney fees to Lozoff for the legal services rendered in conjunction with the real estate deal.49 Shore Heights failed, however, to remit the agreed-upon fees and Lozoff sued for payment.50

Reversing the jury's verdict, the appellate court held that Lozoff was not entitled to recover his legal fees because an attorney who is not licensed to practice law in Illinois cannot recover on a contract to perform legal services in Illinois.51 In response to Lozoff's argu-
ment that Supreme Court Rule 707 was inapposite since he was attempting to recover for legal services performed outside the courts, the court noted that in the absence of some extenuating circumstances, an out-of-state attorney who renders services locally falls within the prohibition against illegally practicing law and cannot recover compensation from his client for the local services.

ANALYSIS

**Old Justifications vs. Current Needs For Restricting the Interstate Practice of Law**

The steady increase in societal mobility in the past few decades has brought about a rise in the incidences of interstate legal issues and disputes. The practices of many attorneys currently span across the country due to the multistate business practices and lifestyles of their clientele. The states, however, have not effectively amended their regulations on the interstate practice of law to adjust to this increase in mobility.

Most of the original justifications for restricting the interstate practice of law no longer exist. An Illinois client’s need for pro-legal fees because of § 1 of the Attorneys and Counselors Act. Id. at 703, 342 N.E.2d at 480. See ILL. REV. STAT. ch. 13, § 1 (1983), which states in part:

No person shall be permitted to practice as an attorney or counselor at law within this State without having previously obtained a license for that purpose from the Supreme Court of this State.

No person shall receive any compensation directly or indirectly for any legal services other than a regularly licensed attorney.

52. *Lozoff*, 72 Ill. App. 3d at 700, 342 N.E.2d at 478. See *supra* note 42 for the text of Supreme Court Rule 707.

53. *Id.* at 701, 342 N.E.2d at 479.

54. Note, *supra* note 1, at 1711. The note states that “the increased mobility of the populace has made more frequent the local practitioner’s encounter with a client who has interests in different jurisdictions.”

55. *Kalish, supra* note 25. Kalish notes that “lawyers responding to social, economic and political factors have in fact become more mobile. These influencing factors include national unity, legal uniformity, professional specialization, political (e.g., social reform and civil rights) assertiveness and solicitude for the client’s choice of attorney.” *Id.* at 367-68. Underlying all these factors are technological advances in transportation and communication which have facilitated this mobility. *Id.* at 368.

56. *Brakel & Loh, supra* note 4, at 700. Brakel & Loh note that “resistance to the phenomenon of increased interstate practice of law is prevalent today. A network of legal rules and regulations is aimed at restricting the practice of out-of-state (‘foreign’) lawyers.”


[T]he fundamental assumptions behind these rules are rooted in the legal and social realities of the roaring twenties. If this premise is at least partially true, it is safe to say that the regulation of the practice of law by the states, in so far as
tection from incompetent out-of-state attorneys has diminished considerably since the early 1900's. The typical client who obtains out-of-state counsel today is not a casual consumer of legal services, but is rather a sophisticated or specialized business or individual.58

At present, if an Illinois client is the victim of attorney malpractice, he will have the means to obtain a remedy even if his attorney was unauthorized to practice in Illinois. In 1955, Illinois adopted a long-arm jurisdiction statute that submits any person to the jurisdiction of Illinois courts if the person does certain enumerated acts.59 If a nonresident of Illinois transacts any business within Illinois60 or commits a tortious act within Illinois,61 Illinois courts

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58.  R. BURKETT, supra note 20, at 5.
59.  Section 2-209 of the Illinois Code of Civil Procedure provides in pertinent part:
(a) Any person, whether or not a citizen or resident of this State, who in person or through an agent does any of the acts hereinafter enumerated, thereby submits such person, and, if an individual, his or her personal representative, to the jurisdiction of the courts of this State as to any cause of action arising from the doing of any such acts:
(1) The transaction of any business within this State;
(2) The commission of a tortious act within this State;
(b) Service of process upon any person who is subject to the jurisdiction of the courts of this State, as provided in this Section, may be made by personally serving the summons upon the defendant outside this State, as provided in this Act, with the same force and effect as though summons had been personally served within this State.

ILL. REV. STAT. ch. 110, ¶ 2-209 (1982); see infra note 120.
60.  E.g., Biltmoor Moving & Storage Co. v. Shell Oil Co., 606 F.2d 202 (7th Cir. 1979). The court noted that under Illinois law, despite lack of physical presence within Illinois, the long-arm statute and notions of due process permit Illinois courts to gain jurisdiction over a person or corporation who enters a contract knowing that it will be performed in Illinois. Id. at 207; see also Scovill Mfg. Co. v. Dateline Elec. Co., 461 F.2d 897 (7th Cir. 1972). There the court held that three meetings in Chicago between representatives of the plaintiff Connecticut Corporation and the managing director and salesman of the defendant English corporation were sufficiently meaningful to fulfill due process requirements and that the defendant was "transacting business" within the meaning of Illinois' long-arm statute so that the federal district court in Illinois acquired personal jurisdiction over the defendant. Id. at 900.
61.  E.g., Honeywell, Inc. v. Metz Apparatewerke, 509 F.2d 1137, 1142 (7th Cir. 1975) (term "tortious act," under Illinois long-arm statute, includes concept of injury and situs of tort is place where injury occurs); Dodine's, Inc. v. Sonny-O, Inc., 494 F. Supp. 1279 (N.D. Ill. 1980) (for purposes of Illinois long-arm statute, jurisdiction is obtained regardless of whether tortious conduct caused economic or physical injury).
have personal jurisdiction over that nonresident. Since Illinois citizens can derive substantial protection from the long-arm jurisdiction statute, the Illinois rules on admission of out-of-state attorneys can become less restrictive without reducing protection of Illinois citizens.

The fact that an attorney obtained his license to practice law in another state will not typically be the most important factor in determining whether he is competent to practice law in Illinois today. State admission standards are now much more similar than they were in the past. Almost every state requires an undergraduate degree plus graduation from an organized law school. As of 1983, forty-nine states and the District of Columbia have required all new applicants to pass a written bar examination. Testing standards for the bar examination have become increasingly uniform with the widespread use of the Multistate Bar Examination, now adopted by forty-six states and the District of Columbia.


Although the Illinois long-arm statute has not yet been used by an Illinois client against an out-of-state attorney, an out-of-state attorney who comes into Illinois to practice law submits to the jurisdiction of the courts of Illinois because he has invoked the benefits and protections of the law of Illinois. See Tabor & Co. v. McNall, 30 Ill. App. 3d 593, 333 N.E.2d 562 (1975). In Tabor, contracts for purchase and delivery of grain were negotiated in phone calls between parties in Wisconsin and Illinois. Confirmation was sent from Illinois to Wisconsin and the delivery of grain was to occur in Illinois. Id. at 595, 333 N.E.2d at 563. The court held that the sellers performed acts sufficient to constitute transaction of business within Illinois so as to give the court personal jurisdiction over them in Illinois in an Illinois action brought by buyer for breach of contract. Id.; see also State Security Ins. Co. v. Frank B. Hall & Co., 530 F. Supp. 94 (N.D. Ill. 1981). There, exercise of jurisdiction over a Texas law firm under the Illinois long-arm statute was precluded when the law firm only mailed into Illinois a false letter and check which caused injury to occur in Illinois to an Illinois plaintiff. The court held that the law firm had taken no action to purposefully avail itself of the privilege of conducting activities within Illinois. Id. at 99-100.

63. Hafter, supra note 28, at 7-9. "Thus, there is little difference in the educational requirements for initial admission among American jurisdictions. There are also minor differences among the states over bar examination requirements." Id. at 8.

64. Id. at 7 n.22. In 1950, thirty-five states permitted law office study as preparation for admission to the bar. Today there are only four states, California, Mississippi, Vermont, and Virginia, in which attorneys can prepare for the bar examination by law office study. Id.

65. Id. at 8 n.25. "As of 1983, only one state, Wisconsin, continues to admit graduates of in-state law schools without any additional examination of their legal knowledge." Id.

66. Id. at 8 n.26. Indiana, Iowa, Louisiana, and Washington are the only states not using the Multistate Bar Examination as part of their bar examination. Id. Some disparities still exist in the standard of proficiency required to pass the bar examination in different jurisdictions. Id. at 9.
State bar examinations will continue to become more similar because state substantive and procedural laws are becoming much more uniform in nature.67

The fact that the original justifications for restricting the interstate practice of law are no longer compelling does not mean the State of Illinois has absolutely no interest in protecting Illinois citizens from incompetent out-of-state attorneys. It does mean, however, that the state's interest in protection of its citizens is substantially less than it was in the early 1900's. Consequently, Illinois should amend its restrictions to meet the needs of our mobile society without leaving Illinois citizens unprotected.

Impact of the Illinois Rules on Admission of Out-Of-State Attorneys

Although the Illinois rules on admission of out-of-state attorneys to practice in Illinois are constitutional,68 the rules should be amended to accommodate the realities of modern society. There are three basic problems with the rules as they currently exist. First, they restrict an Illinois client's right to counsel by not allowing him to obtain an out-of-state attorney for matters to be handled out of court. Second, the Illinois rules are difficult to enforce. Finally, the rules often put an out-of-state attorney in a difficult and unfair position because they do not sufficiently explain what type of out-of-court actions constitute the unauthorized practice of law in Illinois.

Restriction on Clients' Right to Counsel

There are many circumstances under which an Illinois citizen might prefer to obtain out-of-state counsel.69 The need for professional specialization increases as society continues to become more

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67. See Kalish, supra note 25, at 368 (legal uniformity is a fact of modern life); Hafter, supra note 28, at 9-10. Hafter noted that since there has been a trend toward uniformity of substantive and procedural law, there remain relatively few topics involving local practice requirements which can be used to justify an additional examination. Id. at 9. Hafter also pointed out that because a formal examination is an unnecessary and burdensome requirement to experienced attorneys, no provision for reexamination has been included in the Recommendation for a Uniform Standard for Admission by Reciprocity under consideration by the American Bar Association. Id. at 10.


69. See E. MICHELMAN, PRO HAC VICE REGULATION — IN THE NATIONAL INTER-
complex. Because attorneys' practices are becoming increasingly specialized, an Illinois client might want to obtain an out-of-state attorney because he specializes in a certain area of the law.

An attorney-client relationship is an important relationship involving trust and confidentiality and can last for many years. Consequently, it is very likely that many clients moving to Illinois would prefer to retain their out-of-state attorneys. It is also possible that an Illinois client might want to obtain out-of-state counsel because the attorney is an old friend or family member.

One of the most important situations in which an Illinois client might wish to obtain an out-of-state attorney is when the client is a multistate business located in Illinois which wants to use its attorneys from its out-of-state headquarters. It is burdensome to re-
quire a business to hire a separate attorney from each state into which its activities venture, rather than to send attorneys from its main office to Illinois to represent the company.\textsuperscript{77} The admission rules also make it difficult for an out-of-state company to send its attorneys into Illinois to negotiate a contract with an Illinois business, or to explore the possibility of expanding into Illinois.\textsuperscript{78} In each of these situations, the client may be unable to employ out-of-state counsel and his right to counsel will accordingly be restricted.\textsuperscript{79} This happens because Illinois does not provide a reasonable method for an out-of-state attorney to obtain authorization to practice law in Illinois on a limited basis when the attorney does not plan to appear before a court.\textsuperscript{80}

Pro hac vice is not really an alternative for the out-of-state attorney who comes to Illinois to negotiate a settlement or contract. Pro hac vice only allows a court, in its discretion,\textsuperscript{81} to permit an out-of-state attorney to participate before the court in the trial or argument of any particular case in which he is employed.\textsuperscript{82} A court does not therefore have the power to authorize an out-of-

\textsuperscript{77} Id.
\textsuperscript{78} Id.
\textsuperscript{79} See Smith, supra note 11. This author noted that "it is in the national interest and the interest of nationwide consumers of legal services that restrictive practices and state barriers be eliminated and interstate reciprocity be broadened." Id. at 559. See also Special Project, Admission to the Bar: A Constitutional Analysis, 34 Vand. L. Rev. 655 (1981). The article noted that "the cost or availability of competent legal counsel may preclude a corporation from entering into new business areas, merging with other businesses, or taking advantage of the most beneficial tax structures." Id. at 749.
\textsuperscript{80} See infra notes 81-90 and accompanying text.
\textsuperscript{81} See, e.g., Norfolk & W. Ry. Co. v. Beatty, 400 F. Supp. 234 (S.D. Ill. 1975). The court held that the Illinois statute was not unconstitutional as applied to not allowing out-of-state attorneys to participate in a case even though the attorneys had been permitted to appear without limitation numerous times in the past, that the case was already being prepared for trial, that the attorneys were specialists who regularly represented their client, and that the accidents involved occurred in another state. Id. at 237.
\textsuperscript{82} See supra notes 41-43 and accompanying text.
state attorney to practice law in Illinois with regard to a matter that is not before it. A court cannot authorize, through pro hac vice, a substantial amount of the work done by out-of-state attorneys in Illinois.

As a result, the only way the out-of-state attorney can become authorized to negotiate a contract or settlement in Illinois is by obtaining a license to practice law in Illinois. The restrictions placed upon the only two available methods, "qualification on examination" and "qualification on foreign license," however, render this an unrealistic option for the majority of out-of-state attorneys. "Qualification by examination" is a very time-consuming and expensive method. The attorney must pass separate examinations on academic qualification and professional responsibility. Generally, only two academic qualification examinations and three professional responsibility examinations are conducted annually. It would be extremely difficult for an out-of-state attorney to accept an Illinois case when he might have to wait for six months before knowing if he is authorized to practice in Illinois. Moreover, the necessity of sitting for the entire academic examination is an unrealistic requirement in many situations. For example, there is no need for an attorney who is a specialist in antitrust and wants to come into Illinois solely to negotiate a settlement to be required to pass an examination that may cover criminal law and procedure, commercial paper or evidence.

In general, when an attorney is licensed to practice law in Illi-

83. E.g., Lozoff, 35 Ill. App. 3d at 700, 342 N.E.2d at 478; see Note, Multistate Practice, supra note 74, at 1212 (pro hac vice does not provide authorization for nonlitigation activity).
84. See supra notes 31-39 and accompanying text.
85. See supra notes 32-34 and accompanying text.
86. See supra notes 35-40 and accompanying text.
88. Id.
89. Smith, supra note 11, at 558. Smith noted that the more specialized a lawyer is in one branch of the law, the greater the lawyer's difficulty will be in gaining admission through a general bar examination. Id.
90. Supreme Court Rule 704(d) states:

The academic qualification examination shall be conducted under the supervision of the board, by uniform printed questions, and may be upon the following subjects: administrative law; agency; business organizations; commercial paper; conflict of laws; contracts; criminal law and procedure; domestic relations; equity jurisprudence, including trusts and mortgages; evidence; Federal and State constitutional law; Federal jurisdiction and procedure; Federal taxation; Illinois procedure; personal property, including sales and bailments; real property; suretyship; torts; and wills and administration of estates.

nois, it means that he is competent to practice in any area of the law. When an out-of-state attorney wants to practice law in Illinois on a full-time basis, the Illinois Supreme Court is fully justified in testing the out-of-state attorney on every area of the law before granting him a license to practice law in Illinois. To require an out-of-state attorney to become licensed through academic examination in order to negotiate one settlement is, however, unnecessary and overburdensome.

The out-of-state attorney can also obtain a license to practice law in Illinois by “qualification on foreign license.” This alternative is also very impractical for the out-of-state attorney who wants to practice in Illinois on a very limited basis. Among other requirements, the attorney is required to establish that he is an actual resident of the State of Illinois and that upon admission to the bar, he will actively and continuously engage in the practice of law in Illinois. This requirement alone will effectively stop almost any out-of-state attorney who only wants to practice law in Illinois on a limited basis from trying to obtain a license by “qualification on foreign license.” The Illinois rules also state that in the event the out-of-state attorney’s home state has higher qualifications for admission than Illinois, the out-of-state attorney will be required to conform to those higher qualifications in his application for admission to the Illinois bar. If an out-of-state attorney’s home state does not grant reciprocal admission to attorneys licensed in Illinois, then an out-of-state attorney will not be able to obtain an Illinois license by “qualification on foreign license.” Because out-

91. “Any person admitted to practice law in this state is privileged to practice in every court in Illinois.” ILL. SUP. CT. R. 701, ILL. REV. STAT. ch. 110A, ¶ 701 (1983). See In re Rosenberg, 413 Ill. 567, 576, 110 N.E.2d 186, 191 (1953) (a license to practice is a guaranty that the person holding license is a fit person to assume the responsibility of keeping the confidence of others while aiding and assisting them in their legal and business affairs).

92. See supra notes 34-39 and accompanying text.

93. See supra note 37.

94. ILL. SUP. CT. R. 705(b), ILL. REV. STAT. ch. 110A, ¶ 705(b) (1983).

95. See supra note 94. One of the main justifications supporting the Illinois Rules on Admission is economic protection of the local bar. Supreme Court Rule 705(b) is an example of the state’s protection of local attorneys without regard to individual competence of the out-of-state attorney. Illinois would be more assured of having competent attorneys practicing in its courts if Illinois focused on the initial admission standards of the out-of-state attorney’s home state rather than focusing on the state’s reciprocity program. Comment, Commerce Clause Challenge, supra note 19, at 759; Note, Multistate Practice, supra note 74, at 1197-98 (“A requirement that the applicant’s home state extend a corresponding privilege . . . adds nothing to the protection of the admitting state’s citizens and serves only to preserve the economic status of the local bar.”).

Supreme Court Rule 705(d) further exemplifies that economic protection of the local
of-state attorneys will be discouraged to try to obtain a license, an Illinois citizen's chance of obtaining an out-of-state attorney is severely limited.

Unenforceability

The second problem with the Illinois rules on admission of out-of-state attorneys is that they are often difficult to enforce.\textsuperscript{96} When an out-of-state attorney is practicing out of court there is a very small chance that he will be reported for the unauthorized practice of law.\textsuperscript{97} Even if an out-of-state attorney is reported to the Illinois bar is a justification for the Illinois Rules on Admission. ILL. SUP. CT. R. 705(d), ILL. REV. STAT. ch. 110A, § 705(d) (1983). An out-of-state attorney who establishes that he is an actual resident of Illinois and that upon admission to the bar he will actively and continuously engage in the practice of law in Illinois is not tested on his knowledge of substantive and procedural Illinois law. One possible rationale for this rule is that by moving into Illinois the out-of-state attorney will learn about local customs and become part of the community. As a result, the out-of-state attorney will learn Illinois substantive and procedural law on his own. Although this rationale might prove true in the long run, economic protection of the local bar is more likely to be the main justification for this rule. Once the out-of-state attorney becomes an Illinois resident the state is less concerned about the possibility of attorney fees leaving the state. See Brakel & Loh, supra note 4, at 734-35. ("economic protection of the local bar cannot be recognized as a valid motive for restrictions on multistate practice"); Comment, supra note 19, at 756 ("The state protects the local market by excluding out-of-state competition unless that competition will join the local market."); Note, supra note 1, at 1712 (economic protection of the local bar is an unworthy goal of state regulation according to most commentators). The economic rationale should not fall within the permissible state interests allowed under Schware v. Board of Bar Examiners, 353 U.S. 232 (1957), because it has no relation to fitness or capacity to practice law. See supra note 15 for a discussion of Schware.

\textsuperscript{96} R. BURKETT, supra note 20, at 6. "One of the greatest dangers in promoting and enforcing the rules of professional conduct is that certain rules are so constructed as to be difficult to enforce and, consequently, encourage non-compliance." \textit{Id}. "The greatest enforcement problem, and perhaps the single most important flaw in regulating pro hac vice admissions, is that the rules are usually written so that they are applicable only to court appearances. There are no special rules that apply to practice in out-of-state matters that are not yet in or may never be in litigation." \textit{Id.; see also} Brakel & Loh, supra note 4. According to these commentators:

A fundamental aspect of multistate practice regulation is its format as a flat prohibition against such practice with only limited exceptions — admission under certain circumstances when applicants meet defined requirements. In addition to such explicit exceptions, however, there exists a large gray area, a no-man's land of unenforced or unenforceable proscriptions on professional activity.

Needless to say, this area of nonregulation poses some difficult questions for those who hope to find logic and reason in the rules, and for lawyers who hope to find instruction as to what they may or may not do. Contradiction abounds in this no-man's land, and, not surprisingly, the legitimate concerns of assuring ethics and competence are all but lost in the chaos that has ensued. \textit{Id.} at 715.

\textsuperscript{97} Since the Illinois client hired the out-of-state attorney, there is no reason for the
Attorney Registration and Disciplinary Commission for the unauthorized practice of law, the commission is limited in its ability to respond because out-of-state attorneys are not registered as officers of the court in Illinois. As a result, the out-of-state attorney is not subject to any disciplinary action in Illinois, unless he is admitted pro hac vice. The commission refers complaints against attorneys unauthorized to practice in Illinois to the state’s attorney’s office. The state’s attorney can seek an injunction, an unauthorized practice of law violation, or a contempt of court violation. However, the state’s attorney’s office typically seeks only an injunction against an unauthorized out-of-state attorney. Only in rare circumstances does it find the need to seek a contempt of court conviction or an unauthorized practice of law conviction. In those rare cases, a contempt of court conviction is usually sought, in preference to an unauthorized practice of law conviction, because the state has an easier burden of proof and the penalty is harsher for a contempt of court violation.

Regardless of how the state’s attorney’s office decides to prosecute the unauthorized out-of-state attorney, there is no formal provision for reporting the conviction back to the attorney’s home state. The convicted attorney remains able to practice law in any state, other than Illinois, since it is often unlikely that an unauthorized out-of-state attorney will be reported to his home state. Because the consequences of an unauthorized practice of law con-
Hardship on Attorneys

The third problem with the current Illinois rules on admission is that an out-of-state attorney is put in a difficult situation because he must be able to determine in advance when his actions in Illinois require authorization. For example, the out-of-state attorney must try to determine whether all the preparation and drafting prior to the actual court filing of a lawsuit is unauthorized practice of the law. The out-of-state attorney must also try to determine whether his giving of legal advice to an Illinois client on Illinois law will result in the attorney's submission to the jurisdiction of the Illinois courts. The out-of-state attorney who practices law in Illinois in any way does so at great risk because the rules are

107. R. Burkett, supra note 20, at 16. Burkett notes that “Attorneys who enter into even the most basic forms of interstate practice do so at great risk, with few guidelines and no logical unity of approach from jurisdiction to jurisdiction.” Id.; E. Michelman, supra note 69, at 12. Michelman notes that “lawyers should probably be considered the victims rather than the villains of these interweaving networks of regulatory authority and rules. From the point of view of the interstate practitioner as well as the client he serves it would be valuable to receive consistent messages of when his conduct requires specific authorization through a court. . . . In most cases, the burden falls on the individual lawyer to determine in advance when a legal matter has become so inextricably intertwined with the laws or legal system of another jurisdiction that some official acknowledgement of their involvement is desirable to prevent any risk of prosecution for unauthorized practice.” Id.

108. Kalish, supra note 25, at 374.

An unlicensed lay person may not practice law in a state, but a foreign attorney, once granted pro hac vice admission status, may litigate a cause. Before such permission or without such permission, the foreign attorney is unauthorized to practice. This scheme probably deters foreign attorneys from engaging in litigation preparation for if the preparation is considered the practice of law, the foreign attorney may not only be unable to collect a fee, but he may be considered to have engaged in criminal activity. The foreign attorney’s uncertainty about when law practice will be permitted will be further aggravated by the ambiguities and difficulties associated with the meaning of the concept of the unauthorized practice of law. The consequences of this uncertainty and its probable deterrent effect on foreign attorney preparatory work are unfortunate for frequently trial preparation can be the most important stage of a case. It may actually lead to the avoidance of litigation, either by way of settlement or by a decision not to file suit.

ambiguous as to what constitutes the practice of law.\textsuperscript{110} Rules that are ambiguous and very hard to enforce generally tend to encourage noncompliance.\textsuperscript{111}

\textit{Lozoff v. Shore Heights, Ltd.},\textsuperscript{112} shows how the Illinois rules can be unfair to an out-of-state attorney. The Illinois rules did not provide Lozoff with a practical way to obtain authorization to negotiate a land agreement in Illinois.\textsuperscript{113} Although Lozoff was a competent attorney who performed all of the services required of him by the contract, he was not allowed to collect his legal fees.\textsuperscript{114} Even if the out-of-state attorney determines that his actions constitute the practice of law in Illinois, he might still find it unfeasible to try to obtain authorization given the difficulties inherent in the admission rules.\textsuperscript{115}

\textbf{ALTERNATIVE}

\textit{An Expanded and Improved Pro Hac Vice Proposal}

Illinois should set up a procedure that encourages out-of-state attorneys to become authorized to practice in Illinois.\textsuperscript{116} The procedure should consist of two different parts. Illinois should first provide a practical way for an out-of-state attorney to become authorized to practice law in Illinois on a limited basis. The state should then enforce this procedure by disciplining any attorney who enters Illinois and practices law in any manner without authorization.

One possible way for Illinois to establish a practical method for authorizing an out-of-state attorney to practice is by expanding

\begin{itemize}
\item \textsuperscript{110} The Illinois pro hac vice statute does not state whether all the preparation, advice and drafting prior to the actual court filing is unauthorized practice. \textit{See supra} note 41.
\item \textsuperscript{111} \textit{See supra} note 107.
\item \textsuperscript{113} \textit{See supra} notes 52-54 and accompanying text.
\item \textsuperscript{114} \textit{See supra} note 51. Lozoff was competent enough to obtain a license to practice law in Illinois only eight months after he had entered in the contract with Shore Heights. 35 Ill. App. 3d at 698, 342 N.E.2d at 477.
\item \textsuperscript{115} \textit{See supra} notes 80-89 and accompanying text.
\item \textsuperscript{116} \textit{See Smith, supra} note 11, at 559.
\end{itemize}

It is in the national interest and the interest of nationwide consumers of legal services that restrictive practices and state barriers be eliminated and interstate reciprocity be broadened. Although the lawyers in one state may benefit temporarily from shutting out others, the legal profession in the long run must find its economic prosperity in national union, not in state division.

\textit{Id.}
and improving the pro hac vice device.\textsuperscript{117} Pro hac vice should be expanded by giving courts the power to authorize an out-of-state attorney's practice of law that is not before a court. In order for an out-of-state attorney to obtain authorization to practice any type of law in Illinois on a limited basis, he should have to petition a court or an administrative agency for authorization.\textsuperscript{118} Three independent requirements should be fulfilled by every out-of-state attorney before a court can authorize an attorney to practice law in Illinois on a limited basis. Before these requirements could be addressed, however, it would have to be demonstrated that the attorney's home state accorded Illinois attorneys a similar privilege to practice in that state. While such a prerequisite is undesirable from a theoretical point of view, as a practical matter it will probably be necessary for acceptance of the expanded pro hac vice device.

The first requirement is for the attorney to submit to the state's disciplinary and malpractice jurisdiction.\textsuperscript{119} It is very important for the state to obtain disciplinary jurisdiction\textsuperscript{120} over all attorneys who practice law in Illinois in and out of court because the state's

\textsuperscript{117} This new procedure goes beyond just providing a method for out-of-state attorneys to obtain authorization to practice law out of court in Illinois on a limited basis. This procedure would apply to all out-of-state attorneys who want to practice law in Illinois on a limited basis, whether in or out of court. As a result, the procedure would replace Supreme Court Rule 707. See supra note 41 for a discussion of this rule.

\textsuperscript{118} The out-of-state attorney would petition a court if he plans to file the case in the court. If the out-of-state attorney planned to practice law out of court, then he would have to petition an agency designated by the Illinois Supreme Court, possibly the Attorney Registration and Disciplinary Commission.

\textsuperscript{119} E.g., ARK. STAT. ANN. tit. 27, app. (R. Governing Admission to Bar XIV) (1975) ("A nonresident lawyer will not be permitted to engage in any case in an Arkansas court unless he first signs a written statement, to be filed with the court, in which the nonresident lawyer submits himself to all disciplinary procedures applicable to Arkansas lawyers."); E. MICHELMAN, supra note 69, at 6 ("Most regulations explicitly state that the pro hac vice applicant must submit to the disciplinary jurisdiction of the forum state . . .")

\textsuperscript{120} Long-arm jurisdiction and disciplinary jurisdiction are two different concepts. Long-arm statutes provide for personal jurisdiction and service of process over persons or corporations who are nonresidents of the state and voluntarily go into the state, directly or by agent, or communicate with persons in the state, for limited purposes, in actions which concern claims relating to the performance or execution of those purposes. BLACK'S LAW DICTIONARY 849 (5th ed. 1983). Disciplinary jurisdiction is the state's ability to impose a sanction on an attorney for misconduct. A state obtains this jurisdiction when the state admits a lawyer to practice in the state. If a lawyer is practicing in a state in which he is not admitted, the state does not have disciplinary jurisdiction, although the lawyer may still be prosecuted by that state for unauthorized practice (criminal charges). SEE PROFESSIONAL DISCIPLINE FOR LAWYERS AND JUDGES, STANDARD 4.1 (1979) ("A lawyer admitted to practice in a state should be subject to the jurisdiction of its agency."); 4.2 ("All lawyers specially admitted to practice in a state for a limited purpose should be subject to the jurisdiction of the agency in the state with respect to any misconduct related to that purpose."); see supra notes 107-08 and accompanying text.
ability to enforce the admission rules would be greatly enhanced. Upon receipt of a formal complaint, the state would hold a hearing to determine whether the out-of-state attorney was guilty of malpractice.\footnote{121} If the attorney were found guilty, the court would have the authority to permanently prohibit the attorney from practicing in Illinois, to suspend his authorization to practice in Illinois, or to impose a reprimand on the attorney.\footnote{122} Illinois would then send a certified copy of the findings of fact to the out-of-state attorney’s home state.\footnote{123} Upon receipt of the reprimand and findings of fact, many states through reciprocal agreements could initiate a disciplinary proceeding against the attorney and hold that the certified copy of the findings of fact constitutes conclusive evidence that the attorney committed misconduct.\footnote{124}

\footnote{121} \textit{ILL. Sup. Ct. R.} 753, \textit{ILL. Rev. Stat.} ch. 110A, \S 753 (1983) (Inquiry, Hearing and Review Boards); \textit{Professional Discipline for Lawyers and Judges, Standard} 8.1 (1979) (“A disciplinary proceeding may be initiated by counsel upon the complaint of another person or entity, or upon counsel’s own motion in light of information received or acquired from any source.”).

\footnote{122} Supreme Court Rule 771 (Types of Discipline) states:

- Conduct of attorneys which violates the Code of Professional Responsibility contained in article VIII of these rules or which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute shall be grounds for discipline by the court. Discipline of attorneys may be:
  - (a) disbarment;
  - (b) disbarment on consent;
  - (c) suspension for a specified period and until further order of court;
  - (d) suspension for a specified period of time;
  - (e) suspension until further order of the court;
  - (f) suspension for a specified period of time or until further order of the court with probation; or
  - (g) censure.

\textit{ILL. Sup. Ct. R.} 771, \textit{ILL. Rev. Stat.} ch. 110A, \S 771 (1983); \textit{see also Professional Discipline for Lawyers and Judges, Standard} 6 (1979) (court has the power to impose various sanctions: disbarment, suspension, probation, reprimand, admonition, restitution.) The court would determine the length of the suspension by considering the severity of the misconduct. After the attorney’s suspension had expired, the court could require association with local counsel before the court would again grant admission pro hac vice.

\footnote{123} \textit{See infra} note 137.

\footnote{124} In the following cases, the courts have recognized that findings made in connection with an order disbarring or suspending an attorney in one state were entitled to preclusive effect in subsequent disciplinary proceedings against the attorney in a different state. Florida Bar v. Wilkes, 179 So.2d 193 (1965), \textit{cert. denied}, 390 U.S. 983 (1967). The \textit{Wilkes} court concluded that a rule of the Florida bar made a New York judgment of guilt conclusive proof of an attorney’s misconduct in a disciplinary proceeding in Florida. \textit{Id.} at 197; Nolan v. Brawley, 251 Ind. 697, 244 N.E.2d 918 (1969). After discovering that an Indiana attorney was disbarred in Wisconsin, the \textit{Nolan} court concluded that to uphold the integrity of the Indiana State Bar, as well as to protect the citizens of Indiana from such persons, the attorney should not be allowed to honorably occupy a position of trust and confidence in Indiana when he was unable to do so in Wisconsin, and that he
The second requirement would be that the attorney establish that he is competent to practice law.\textsuperscript{125} Besides meeting educational qualifications,\textsuperscript{126} the attorney would have to show that he has a satisfactory disciplinary record.\textsuperscript{127} The attorney should not would therefore be disbarred from practice in Indiana. \textit{Id.} at 702-04, 224 N.E.2d at 922-23; Committee on Professional Ethics & Conduct of Iowa State Bar Ass'n v. Sturek, 209 N.W.2d 899 (Iowa 1973). The \textit{Sturek} court stated that the attorney had been charged with violation of Nebraska canons of professional ethics which, like Iowa's, were based on the American Bar Association Code of Professional Responsibility. It also noted that after the conclusion of Nebraska disciplinary proceedings, the Nebraska Supreme Court had found the attorney guilty of gross professional misconduct and had ordered his disbarment and that this adjudication of misconduct was entitled to full faith and credit in Iowa. \textit{Id.}; Kentucky Bar Ass'n v. Signer, 533 S.W.2d 534 (Ky. 1976). The \textit{Signer} court stated that in the absence of some defense sufficient to support a collateral attack, the facts adjudicated in a sister state, on which its disciplinary judgment against an attorney was based, should be treated as conclusively established, so as to eliminate any necessity of retrying, in a disciplinary proceeding in Kentucky, the same factual issues or other factual issues which could and should have been raised in the sister state's proceedings. \textit{Id.} at 537; see also ILL. SUP. CT. R. 763, ILL. REV. STAT. ch. 110A, ¶ 763 (1973) ("Reciprocal Disciplinary Action"); AMERICAN BAR ASSOCIATION CENTER FOR PROFESSIONAL RESPONSIBILITY, \textit{SURVEY OF LAWYER DISCIPLINARY PROCEDURES IN THE UNITED STATES}, 31 (1984). Thirty-two states have rules that provide that a certified copy of the findings of fact in a disciplinary proceeding in another jurisdiction constitute conclusive evidence that the respondent committed the misconduct and that the only issues to be decided in the reciprocal proceeding will be whether the respondent was afforded due process of law in the course of the original proceeding and whether the imposition of identical discipline in the forum state would be clearly inappropriate. \textit{Id.}; 81 A.L.R. 3d 1281 (discussing disbarment or suspension of attorney in one state as affecting right to continue practice in another state).

\textsuperscript{125} See MODEL CODE DR 6-101. Ethical Consideration 6-3 states:

\begin{quote}
[A] lawyer generally should not accept employment in any area of the law in which he is not qualified. However, he may accept such employment if in good faith he expects to become qualified through study and investigation, as long as such preparation would not result in unreasonable delay or expense to his client. Proper preparation and representation may require the association by the lawyer of professionals in other disciplines. A lawyer offered employment in a matter which he is not and does not expect to become so qualified should either decline the employment or, with the consent of his client, accept the employment and associate a lawyer who is competent in the matter." MODEL CODE EC 6-3.
\end{quote}

\textsuperscript{126} The out-of-state attorney would still have to fulfill the educational requirement as set out in Supreme Court Rule 703. See supra note 33.

\textsuperscript{127} Each application would be required to be supported by a certificate of a judge of a court of general jurisdiction in the jurisdiction from which the applicant seeks admission certifying that the applicant has been admitted to and, at the time of making said application, is a member in good standing of the bar of that jurisdiction. The applicant must have successfully passed the Illinois professional responsibility examination or, in the alternative, the applicant must prove to the satisfaction of the board that he or she has written and scored a passing grade in the Multistate Professional Responsibility Examination of the National Conference of Bar Examiners within five years prior to the application. Both of these requirements are currently in Illinois Supreme Court Rule 705. ILL. SUP. CT. R. 705, ILL. REV. STAT. ch. 110A, ¶ 705 (1983).

The current pro hac vice rules do not require any proof of a satisfactory disciplinary
have to provide proof that he has resided and actively and continuously practiced law in such other jurisdiction for a period of at least five years of the seven years immediately prior to petitioning the court.\textsuperscript{128}

The third requirement would be that the attorney explain to the court the intended scope of his practice of law in Illinois. Unless the case involves complex legal issues in which Illinois law is substantially different than the law of the attorney’s home state, the court should grant the out-of-state attorney’s petition.\textsuperscript{129} If the case does involve complex legal issues or procedures, the court would then review the attorney’s petition in an effort to determine whether, and to what extent,\textsuperscript{130} the court should require associa-

\textsuperscript{128}See \textit{supra} note 37. One justification for this requirement is that it ensures that an out-of-state attorney has been under the watchful eye of a state’s disciplinary agency for a substantial amount of time. The rationale behind such a requirement is that an attorney who fulfills this requirement and is currently in good standing is more likely to be competent than an attorney who has not been practicing law in one area for a substantial amount of time. \textit{See, e.g.}, \textit{Lowrie} v. Goldenhersh, 716 F.2d 401 (7th Cir. 1983). The \textit{Lowrie} court held that the Illinois Supreme Court rule which permits admission of foreign-licensed attorneys into the state bar of Illinois without examination, provided the applicant has resided and actively practiced law in the licensing state for a period of at least five out of the immediately preceding seven years, had a rational basis of concern for a bar applicant’s character and fitness, and thus did not violate the equal protection clause. \textit{Id.} at 409-10. \textit{But see} Brakel & Loh, \textit{supra} note 4, at 710 (prior practice period in another state is an unnecessary burden on foreign applicants); \textit{Comment, supra} note 19, at 755 (requirement has little relationship to an individual attorney’s competence). The main justification for the prior practice rules, a state’s ability to oversee an attorney for a substantial amount of time, will become much less relevant if disciplinary actions are reported on an interstate basis. \textit{See infra} note 137.

\textsuperscript{129}Many states have found that reexamination of an out-of-state attorney’s legal knowledge is unnecessary. \textit{See Hafter, supra} note 28, at 5. “Thirty-one states and the District of Columbia presently admit out-of-state attorneys without additional examination on their legal knowledge, provided that the attorney has practiced in another jurisdiction for a prescribed period of time, is in good standing in the state of prior admission, and meets certain additional requirements.” \textit{Id.}

\textsuperscript{130}After determining the importance of association with local counsel in a particular case, the court would then assign the local counsel one of many possible roles. For example, local counsel could serve as a “mail drop,” as a person with whom the court and opposing counsel could “readily communicate,” as “co-counsel,” or as “co-equal” or “lead” counsel. It should also be made clear what liability the local counsel assumes in each of these roles. E. \textit{Micheiman, supra} note 69, at 9-10; \textit{see Okla. Stat. Ann. tit. 5 ch. 1 App. 1 § 5 (1984). An out-of-state attorney is not required to associate with an Oklahoma attorney if the out-of-state attorney’s home state does not require an Oklahoma attorney representing a client in a court of that state to associate with a resi-
The court would consider many different factors including the difference between Illinois law and the law of the state in which the attorney is licensed. Whether the out-of-state attorney has previously practiced in Illinois is also important, especially if the previous case is similar to the current case. The court will compare the advantages of association with local counsel with the burden it will cause the Illinois client.

The state has, however, the discretionary power to require association with local counsel regardless of the pro hac vice rules of the out-of-state attorney's home state. In any instance where it becomes reasonably apparent, before or during the trial of any cause or proceeding, that the assistance of a member of the Oklahoma Bar Association is necessary to the proper and orderly administration of justice, the court may require the employment of an active member of the Oklahoma Bar Association. The state also has the power to require the associate counsel to be chief counsel if the court finds that the out-of-state attorney has engaged in disorderly or disruptive tactics which interfere with the proper and efficient conduct of the proceedings. This Oklahoma statute is an example of a statute that gives the court discretionary power to determine when association with local counsel is needed and to determine what role the local counsel should play. An alternative to association of local counsel would be for the court or agency to give the out-of-state attorney a special examination that would be focused on the area of the law in which the out-of-state attorney plans to practice. Brakel & Loh, supra note 4, at 711-12 (special examination of foreign applicants is conceptually and practically the most appropriate procedure); see, e.g., Wash. Ct. R. 4(B) (Rule for Admission to Practice) (Washington has two different examinations: general applicant's examination and an attorney applicant's examination).

31. Thirty-five jurisdictions currently require the pro hac vice applicant to associate with local counsel. Illinois is only one of nine jurisdictions that impose no restrictions on the exercise of the court's discretion in granting pro hac vice admission. E. MICHELMAN, supra note 69, at 5. See generally Brakel & Loh, supra note 4, at 705. "The most compelling reason for the requirement is the assumption that local counsel will assure or enhance competence in representation — competence in dealing with local laws and procedures and perhaps in handling local conditions, personalities, customs and prejudices." Id. Association with local counsel also enhances the chances of remedial enforcement for the state of the client. Id. For examples of relevant state statutes, see e.g., S. Ct. R. 13, in 22 S.C. CODE ANN. at 93 (Law Co-op 1977) (any attorney from another state may be admitted pro hac vice to participate in the trial or argument of any particular cause in which he is associated with a member in good standing of the Bar of this State.); KAN. STAT. ANN. § 7-104 (1982); ARIZ. S. CT. R. 28(c).

32. For example, the court should take into consideration what type of client is requesting the authorization of an out-of-state attorney. See supra note 58 and accompanying text. The court should consider the client's need for the state's protection. Id. If the client is a corporation who is trying to use its general counsel, then the court should be more likely to authorize the out-of-state attorney. See supra note 76 and accompanying text.

33. Cf. Norfolk and W. Ry. Co. v. Beatty, 400 F. Supp. 234 (S.D. Ill. 1975). Although the Beatty court did not allow out-of-state attorneys to participate in a case, the court did consider the fact that the attorneys had been permitted to appear without limitation numerous times in the past. Id. at 237.

34. Courts must be careful not to overuse the association with local counsel requirement because it has a clear economic effect on the desirability of retaining out-of-state counsel. Few clients can afford to pay legal fees to both the desired out-of-state counsel and to a local attorney. Comment, supra note 19, at 754.
Ideally, this procedure should be developed as a model rule to be adopted by all the states. Such a model rule would provide attorneys with a practical way of obtaining authorization to practice law in another state on a temporary basis. It will protect citizens more effectively than the current rules by providing for the regulation of all out-of-state attorneys who practice in another state even when they do not plan to appear in court. This procedure should also encourage compliance because it is not overly burdensome on out-of-state attorneys, especially if they have practiced in that state previously. The model rule will provide for an improved inter-

135. Although this note has focused on the Illinois rules of admission, most of the same arguments can be used to show how the admission rules of other states are also outdated and overburdensome. See Wilkey, Proposal for a "United States Bar", 58 A.B.A. J. 355, 356 (1972) (where Chief Justice Warren Burger was quoted as saying: "The licensing and admission power over lawyers vested in each of the 50 state jurisdictions, 93 federal districts and 11 circuits, has led to a hodgepodge of standards for admission and regulations that are desperately in need of careful re-examination."). An effective updating of the standards regarding admission will require participation by many states. Although under this note's proposal a state retains substantial authority to regulate the practice of law, it could be considered a liberal standard because it provides an out-of-state attorney with a greater opportunity to practice law in another state.

The model rule proposed here would establish some broad guidelines for a state to follow when an out-of-state attorney tries to obtain authorization to practice law on a limited basis. The rule would also create a definition of "practicing law in another state" so that attorneys would know when their actions require the authorization of another state. The model rule would suggest factors that a court or agency would consider in determining whether, and under what conditions, to grant pro hac vice admission. Although for many states, including Illinois, this procedure will restrict the existing broad judicial discretion, courts will retain substantial power to register and regulate out-of-state attorneys. Smith, supra note 11 at 559-60.

It is time for the states to adopt consistent approaches, for a uniform practice of law act, or in those states where it is appropriate, a uniform practice of law rule. My preference is a national practice of law act to be enacted by the states, and it is my hope that the organized bar will support a nationwide effort to secure its adoption.

Id. at 560. "Registration and regulation almost certainly will protect the state's interest in most cases." Id. at 559; see also E. MICHELMAN, supra note 69, at 14-15.

One worthwhile reform might be a uniform definition of the practice of law as it applies to lawyers rendering legal services in an interstate context. In addition, uniform and centralized administrative structures could be developed which encourage greater consistency and adherence to precedent or policy in the granting of pro hac vice. These reforms should be made in the context of others which adequately safeguard the interest of the local forum in the competent and ethical conduct of lawyers.

Id.

136. This limited authorization to practice law in Illinois need not always be given on a case-by-case basis. For example, out-of-state corporate counsel who does legal work in Illinois should not have to apply for pro hac vice for every case. The court should have the power to grant a limited license to out-of-state attorneys in certain situations. If the out-of-state attorney fulfills all the requirements, the court would be able to authorize him to practice law in Illinois for a stated number of years as long as he practices law for
state system of reporting disciplinary actions taken against out-of-state attorneys.137 It will, to an extent, limit the court's discretion138 because it outlines the three factors relevant to the court's determination. Limitation of the court's discretion should, however, enhance the predictability of when admission will be granted and the process should become more efficient.139 Moreover, the court will retain some discretion in its effort to determine whether association of local counsel is required and to what extent.

the corporation and does not violate any disciplinary rule. Brakel, supra note 1, at 1084-87; Brakel & Loh, supra note 4, at 710. "A type of limited licensing, confined to the business that necessitates the interstate practice, is also a possibility." Id.

137. The model rule should require that all convictions of an attorney either be reported to the attorney's home state disciplinary commission or to a national data base, such as the ABA Center for Professional Responsibility. See The Clark Report, supra note 23. The committee recommends the establishment of a National Discipline Bank to which every court and administrative agency should report all formal disciplinary measures imposed against attorneys for dissemination to every disciplinary agency within the United States. Id. at 158; see also E. Michelman, supra note 69, at 34 n.165. Michelman noted that "the ABA Center for Professional Responsibility currently releases disciplinary information regarding specific individuals upon written request and might thus be equipped to serve as a national clearinghouse to assist in pro hac vice administration." Id. This will be an improvement because currently states like Illinois do not require disciplinary actions against an out-of-state attorney to be reported to his home state or to other states in which he is licensed to practice. Illinois Supreme Court Rule 768 only requires the clerk of the court to notify Illinois state and federal courts of any disciplinary action taken against an attorney. ILL. SUP. CT. R. 768, ILL. REV. STAT. ch. 110A, ¶ 768 (1983). "As a practical matter the Attorney Registration and Disciplinary Commission will usually try to report the disciplinary action to the out-of-state attorney's home state if possible. Often the Commission is unable to report these disciplinary actions because they do no know what other states the attorney is licensed to practice." Telephone interview with Jim Grogan, Senior Counsel, Illinois Attorney Registration and Disciplinary Commission (March 22, 1985). The reason the commission often does not know in which states an out-of-state attorney is licensed is that the Illinois pro hac vice rule, Supreme Court Rule 707, does not require a written petition with such information from an out-of-state attorney. According to the Illinois pro hac vice rule, it is fully within the court's discretion to decide whether to require an out-of-state attorney to give any information at all. See supra note 41.

138. According to many commentators, the broad discretion vested in the trial judge to grant pro hac vice admission can have a substantially negative effect on interstate commerce. An out-of-state attorney may be discouraged from accepting a case in another jurisdiction because there is a chance he will not be admitted even though he is competent and has all the other prerequisites of an attorney in good standing. As a result, the client may be forced to hire an in-state attorney. Comment, supra note 19, at 753-54. Illinois' rule grants broad discretion to the trial judge. See supra notes 41 and 81. It is the position of this note that the expanded pro hac vice model rule proposed here should effectively solve this problem since it limits the trial judge's discretion to grant pro hac vice.

Enforcement of Unauthorized Practice of Law Rules

An effective way for the courts to enforce the rules is critical to the success of any proposal for the authorization of out-of-state attorneys. It has been difficult for courts to discipline out-of-state attorneys who practice law in Illinois without any authorization. The state should do three things in attempt to deter such violations.

The state should first establish a standard definition of unauthorized practice of law in Illinois which will encompass any work done in Illinois by an unauthorized out-of-state attorney which requires the use of legal knowledge or reasoning. The state should

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140. See supra notes 96-106 and accompanying text.
141. It is the position of this note that although the enforcement of any admission rule is a problem that cannot be fully solved, the state of Illinois can still considerably improve the enforcement of its admission rules.

142. Other states have had to deal with the conflict between restrictive admission regulations and the interstate practice of law. The New Jersey Supreme Court has recognized that multistate relationships are a common part of today's society and should be dealt with in a common sense fashion. In re Estate of Waring, 47 N.J. 367, 221 A.2d 193 (1966). "While the general public is entitled to full protection against unlawful practitioners, their freedom of choice in the selection of their own counsel should be highly regarded and not burdened by 'technical restrictions which have no reasonable justification.'" Id. at 375, 221 A.2d at 197. (quoting New Jersey State Bar Ass'n. v. Northern N.J. Mtge. Associates, 32 N.J. 430, 437, 161 A.2d 257, 261 (1960)).

The New Jersey Supreme Court has held that an unauthorized New York attorney was entitled to his legal fees from a New Jersey client for legal work done in New Jersey. Appell v. Reiner, 43 N.J. 313, 204 A.2d 146 (1964). Although the court recognized the general principle that legal services for New Jersey residents relating to New Jersey matters may be furnished only by New Jersey counsel, the court noted that there may be instances justifying exceptional treatment and the ignoring of state lines. Exceptional treatment is justified when the legal work involves transactions in two or more states, and when as a practical matter the transactions are inseparable. Id. at 316-17, 204 A.2d at 147-48.

Two years later, the New Jersey Supreme Court found that a New York law firm was entitled to fees for services rendered in the administration of an estate, even though that firm had no authorization to practice in New Jersey. In re Estate of Waring, 47 N.J. 367, 221 A.2d 193 (1966), emphasized the fact that the New York firm worked with a New Jersey law firm. The New Jersey law firm was retained to provide assistance with local law aspects of the estate, the New York firm limiting itself to general supervision and federal taxation questions. Id. at 377, 221 A.2d at 198.

The court in Spanos v. Skouras Theatres Corp., 364 F.2d 161 (2d Cir. 1966), also found a way to allow an unauthorized out-of-state attorney to recover his legal fees. The court limited its holding to a situation in which a citizen has invited a duly licensed out-of-state lawyer to work in association with a local lawyer on a federal claim or defense. Id. at 166-67.

It appears that these courts realized that it is impractical to apply restrictive admission standards in every case. They have tried to create short-term solutions to the problem by developing exceptions to the general rule. Brakel & Loh, supra note 4, at 724. "The New Jersey cases are not founded on a clear and consistent rationale, but perhaps can be explained by the commonsense, but analytically unhelpful, proposition that unnecessary
also impose severe consequences on any violation of its admission rules. In addition to obtaining an injunction to discontinue the unauthorized practice of law, the state should more frequently impose punishment for contempt of court. Since the punishment imposed for contempt is within the discretion of the court, the court can impose a fine, a jail sentence, or both. The state should additionally encourage all attorneys who have knowledge that another lawyer is practicing law in Illinois without authorization to inform the appropriate professional authority.

This note contends that to allow an out-of-state lawyer to go to another state and practice limited types of law without any authorization is not the proper solution to the interstate practice of law problem. Such a solution subjects the citizens to a higher chance of obtaining an incompetent out-of-state attorney because the state will not be reviewing the out-of-state attorney's records when the attorney plans to practice law on a limited basis. It also poses the problem of where to draw a line between when an out-of-state attorney is required to obtain authorization and when he is not. Such a solution would be difficult to enforce in a consistent manner.

The courts should continue to refuse to enforce contracts for attorney fees if the attorney was not authorized to practice law in Illinois. See supra note 51.

DR 1-103(A) states: "A lawyer possessing unprivileged knowledge of a violation of DR 1-102 shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation. MODEL CODE DR 1-103. EC 1-4 states:

The integrity of the profession can be maintained only if conduct of lawyers in violation of the Disciplinary Rules is brought to the attention of the proper officials. A lawyer should reveal voluntarily to those officials all unprivileged knowledge of conduct of lawyers which he believes clearly to be in violation of the Disciplinary Rules. A lawyer should, upon request, serve on and assist committees and boards having responsibility for the administration of the Disciplinary Rules.

Model Code EC 1-4; see also MODEL CODE EC 1-6 (lawyers should be diligent in taking steps to see that during a period when a lawyer is disqualified that such lawyer is not practicing law); MODEL CODE Canon 3 (a lawyer should assist in preventing the unauthorized practice of law). See generally Thode, The Duty of Lawyers and Judges to Report Other Lawyers' Breaches of Standards of the Legal Profession, 1976 Utah L. Rev. 95, 99 (most complaints about the unauthorized practice of law are filed by lawyers or judges); Note, The Lawyer's Duty to Report Professional Misconduct, 20 Ariz. L. Rev. 509, 513 (1978) (survey exploring the willingness of lawyers to report their peers' misconduct to the appropriate disciplinary authorities).
CONCLUSION

The interstate practice of law has become necessary in order to meet the needs of an increasingly mobile society. The Illinois rules that regulate the admission of out-of-state attorneys are impractical and difficult to enforce. They also unnecessarily restrict an Illinois citizen's right to counsel. By implementing an admission process which encourages out-of-state attorneys to obtain admission under an expanded pro hac vice procedure and by strictly enforcing the rules, Illinois will have adopted an up-to-date admission procedure which effectively protects its citizens.

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