FORMAL OPINION NO 2005-20
Unauthorized Practice of Law:
Assisting Nonlawyers

Facts:

Lawyer A is asked to assist nonlawyers in lawfully handling FED actions pursuant to ORS 105.105 to 105.168.

Lawyer B is asked to assist in the collection of debts by a debt collection agency operating lawfully pursuant to ORS 697.005 to 697.992.

Lawyer C proposes to use a debt collection agency to collect debts owed to Lawyer C by Lawyer C’s clients as well as debts that may be owed to the clients of Lawyer C.

Lawyer D proposes to prepare a form letter for a nonlawyer client to use by “filling in the blanks” and then signing Lawyer D’s name without any substantive review of the letter as used in a particular circumstance by Lawyer D. Lawyer D also proposes to have legal assistants in Lawyer D’s office draft pleadings that Lawyer D would sign but not actually review before filing.

Lawyer E is asked to work as counsel for a title insurance and escrow company and, in that capacity, take steps as a lawyer to assist the title insurance company in performing functions beyond those permitted of nonlawyers in Oregon State Bar v. Sec. Escrows, Inc., 233 Or 80, 377 P2d 334 (1962).

Questions:

1. May Lawyer A comply with the request?
2. May Lawyer B comply with the request?
3. Is the proposed conduct of Lawyer C ethical?
4. Is the proposed conduct of Lawyer D ethical?
5. May Lawyer E comply with the request?

Conclusions:

1. Yes.
2. Yes.
3. Yes, qualified.
4. No.
5. No.

Discussion:

These questions are governed primarily by Oregon RPC 5.5(a), which provides that a lawyer shall not “assist another” to practice law in a jurisdiction “in violation of the regulation of the legal profession.” Because Lawyers A and B propose to assist their clients in conduct that may lawfully be performed by nonlawyers, Lawyer A and Lawyer B have not violated Oregon RPC 5.5(a). Similarly, Lawyer C can use a collection agency to collect Lawyer C’s own debts or to assist in the collection of debts owed to Lawyer C’s clients. Care must be taken in the latter case, however, to assure that Lawyer C does not “share legal fees with a nonlawyer” within the meaning of Oregon RPC 5.4(a). *Cf. In re Little*, 247 Or 503, 431 P2d 284 (1967).¹

The conduct of Lawyer D, however, would clearly run afoul of Oregon RPC 5.5(a). A lawyer must supervise and control what is done in the lawyer’s name. *In re Jones*, 308 Or 306, 779 P2d 1016 (1989). Similarly, the court in *Sec. Escrows, Inc.*, 233 Or 80, sets the limits with respect to what nonlawyers may do in title- and escrow-related matters. If Lawyer E assists nonlawyer employees of the company in going beyond

¹ *See also In re Morin*, 319 Or 547, 878 P2d 393 (1994) (unlawful practice of law with respect to former DR 3-101(A)).
these limits or otherwise assists the company in practicing law, Lawyer $E$ would be in violation of Oregon RPC 5.5(a).

**Approved by Board of Governors, August 2005.**

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**COMMENT:** For additional information on this general topic and related subjects, see *The Ethical Oregon Lawyer* § 3.4-18 (arbitration of fee disputes), § 13.2-2(b) (lawyers in business with nonlawyers) (OSB Legal Pubs 2015); *Restatement (Third) of the Law Governing Lawyers* §§ 4, 10 cmt h (2000) (supplemented periodically); and ABA Model RPC 5.5.