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2020 Georgia Code


Title 15 - Courts

Chapter 19 - Attorneys

Article 3 - Regulation of Practice of Law

§ 15-19-51. Unauthorized Practice of Law Forbidden

Universal Citation:

GA Code § 15-19-51 (2020) 

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- a. It shall be unlawful for any person other than a duly licensed attorney at law:
1. To practice or appear as an attorney at law for any person other than himself in any court of this state or before any judicial body;
 2. To make it a business to practice as an attorney at law for any person other than himself in any of such courts;
 3. To hold himself out to the public or otherwise to any person as being entitled to practice law;
 4. To render or furnish legal services or advice;
 5. To furnish attorneys or counsel;
 6. To render legal services of any kind in actions or proceedings of any nature;
 7. To assume or use or advertise the title of "lawyer," "attorney," "attorney at law," or equivalent terms in any language in such manner as to convey the impression that he is entitled to practice law or is entitled to furnish legal advice, services, or counsel; or
 8. To advertise that either alone or together with, by, or through any person, whether a duly and regularly admitted attorney at law or not, he has, owns, conducts, or maintains an office for the practice of law or for furnishing legal advice, services, or counsel.
- b. Unless otherwise provided by law or by rules promulgated by the Supreme Court, it shall be unlawful for any corporation, voluntary association, or company to do or perform any of the acts recited in subsection (a) of this Code section.

(Ga. L. 1931, p. 191, § 1; Code 1933, §§ 9-402, 9-403.)

Cross references.

- False or misleading advertising of goods or services generally, § 10-1-390 et seq.

Use of third-year law students and law school staff instructors as legal assistants in criminal proceedings, § 15-18-22.

Grant or denial of commission or recommission; grounds; unauthorized practice of law, § 45-17-2.3.

Third-year law students, Ga. Sup. Ct., Rules 91 - 96.

Law reviews.

- For article, "Offenders Beware - The UPL Department Is on the Case," see 9 Ga. St. B.J. 38 (2003).

JUDICIAL DECISIONS

Power of attorney appointed by estate administrator had no standing to challenge the trial court judgment denying the estate's petition for declaratory judgment and not finding the estate was the legal owner of certain real property because the power of attorney was not a party to the action, was never formally joined, nor was the holder of the power of attorney counsel for the estate administrator; therefore, the holder lacked standing to file an appeal on behalf of the estate. In re Estate of Wheeler, 349 Ga. App. 716, 824 S.E.2d 715 (2019).

Legal aid organizations excluded.

- This section was intended to exclude legal aid organizations from reach of restrictive legislation concerning unauthorized practice of law by a corporation. Dixon v. Georgia Indigent Legal Servs., Inc., 388 F. Supp. 1156 (S.D. Ga. 1974), aff'd, 532 F.2d 1373 (5th Cir. 1976).

Power of attorney is not right to practice law.

- Although an individual can be given a power of attorney to act as the estate's attorney in fact, the power of attorney does not confer upon a layman the right to practice law. In re Estate of Wheeler, 349 Ga. App. 716, 824 S.E.2d 715 (2019).

Corporations prohibited from performing legal services.

- Only duly licensed attorneys may appear in any court in this state or make it a business to practice as an attorney, and corporations are prohibited from rendering or performing legal services of any kind. Dixon v. Georgia Indigent Legal Servs., Inc., 388 F. Supp. 1156 (S.D. Ga. 1974), aff'd, 532 F.2d 1373 (5th Cir. 1976).

Company representation before board valid.

- Agreement in which a company committed itself to represent a taxpayer's interests before the board of equalization was not void as constituting the unauthorized practice of law. Grand Partners Joint Venture I v. Realtax Resource, Inc., 225 Ga. App. 409, 483 S.E.2d 922 (1997).

Letter from nonlawyer employee was not answer to complaint.

- Letter mailed to the trial court from a nonlawyer employee of defendant partnership did not constitute an answer to the complaint since only a duly licensed attorney may answer a complaint for an individual who does not appear pro se. *Mine Chen v. Alexander Terry Assocs.*, 228 Ga. App. 345, 491 S.E.2d 834 (1997).

Signing of principal's name to petition by authorized agent not unlawful.

- Mere signing of the name of the principal to a petition by a duly authorized agent, which petition was to be filed in court, did not constitute the unlawful practice of law on the part of such agent as defined in former Code 1933, §§ 9-401 through 9-403 (see now O.C.G.A. §§ 15-19-50 through 15-19-52). *Lanier v. Lanier*, 79 Ga. App. 131, 53 S.E.2d 131 (1949).

Investigator's testimony did not violate rule prohibiting counsel as witness.

- Defendant's claim that an investigator employed by the district attorney was bound by the ethical and legal standards that prohibited the district attorney from testifying before the grand jury was rejected as an agent could not delegate the agent's authority unless specifically empowered to do so and as the discretionary powers conferred upon public agents could not be delegated without authorization; further, an unlicensed individual could not practice law and a witness could not testify to hearsay other than in specified cases. *Hall v. State*, 273 Ga. App. 203, 614 S.E.2d 844 (2005).

Insurer may use staff counsel to defend insured.

- Activity of furnishing an attorney to an insured by an insurance company using "staff counsel" (a salaried full-time employee of the insurance company) to defend a suit covered by a policy issued by the insurance company constitutes activities "in and about" the insurance company's "own immediate affairs" under O.C.G.A. § 15-19-53 and is therefore not an unauthorized practice of law under O.C.G.A. § 15-19-51. *Coscia v. Cunningham*, 250 Ga. 521, 299 S.E.2d 880 (1983).

Preparing and filing petitions and explaining bankruptcy law.

- Respondent's actions in preparing and filing bankruptcy petitions and explaining the bankruptcy laws to debtors, for which services the respondent was paid compensation, constituted the unauthorized practice of law. *In re Martin*, 40 Bankr. 695 (Bankr. N.D. Ga. 1984).

Attorney countenanced the unauthorized practice of law by laymen by authorizing a non-attorney to prepare a bankruptcy petition and supporting documents and to sign the attorney's name to the documents. *Geibank Indus. Bank v. Martin*, 97 Bankr. 1013 (Bankr. N.D. Ga. 1989).

No right to representation by non-attorney.

- While it is true that a defendant may proceed to defend oneself without counsel, defendant may not expand the right to counsel to include representation by someone else unauthorized to practice law. *Pfeiffer v. State*, 173 Ga. App. 374, 326 S.E.2d 562 (1985); *Gamble v. Diamond "D" Auto Sales*, 221 Ga. App. 688, 472 S.E.2d 446 (1996).

Pro se defendant not prohibited from cross examining victim.

- Trial court abused the court's discretion in a family violence protective order proceeding by prohibiting the defendant from cross-examining the victim because O.C.G.A. § 15-19-51 did not prohibit an individual proceeding pro se from representing themselves and employing their right to a thorough and sifting cross-examination of a witness called against them. *Jha v. Menkee*, 352 Ga. App. 81, 833 S.E.2d 759 (2019).

Evidence sufficient to support conviction for unauthorized practice of law.

- *Gaines v. State*, 177 Ga. App. 795, 341 S.E.2d 252 (1986).

Probation officer who was an employee of a private corporation retained to provide probation supervision services in misdemeanor cases pursuant to O.C.G.A. § 42-8-100(f)(1) (now (g)(1)) was still an officer of the court and could file a petition to revoke defendant's probation on a misdemeanor shoplifting charge; probation officer's action did not constitute the practice of law, let alone the unauthorized practice of law. *Huzzie v. State*, 253 Ga. App. 225, 558 S.E.2d 767 (2002).

Evidence was sufficient to support defendant's convictions for unlawful abuse, neglect, or exploitation of an elder person and unauthorized practice of law, in violation of O.C.G.A. §§ 15-19-51(a)(7) and 30-5-8(a)(1), because defendant befriended an 89-year-old widower, falsely identified himself as an attorney, and eventually obtained the widower's car, jewelry, use of his credit cards for unauthorized purposes, and defendant also forged documents and coerced the widower into changing other documents regarding the estate; the widower was within the definition of "elder person" under O.C.G.A. § 30-5-3(7.1) (now paragraph (6)), and the acts were within the definition of "exploitation" pursuant to O.C.G.A. § 30-5-3(9) (now paragraph (8)). *Marks v. State*, 280 Ga. 70, 623 S.E.2d 504 (2005).

There was sufficient evidence from which a rational trier of fact could find beyond a reasonable doubt that defendant engaged in the unauthorized practice of law by identifying to a probationer and the probationer's probation officer that the defendant was entitled to practice law and by furnishing legal services and advice to the probationer. The probationer agreed to pay the defendant for help in making probation payments. *Sawhill v. State*, 292 Ga. App. 438, 665 S.E.2d 353 (2008).

Signing and submission of petition for revocation of probation.

- Signing and submission to the court of a petition for revocation of probation by a probation officer does not constitute the unauthorized practice of law. *Leverette v. State*, 248 Ga. App. 304, 546 S.E.2d 63 (2001).

Violation as negligence per se.

- Because there was ample evidence that defendant's unauthorized practice of law was the direct cause of plaintiff's injuries, the trial court did not err in charging the jury on negligence per se. *Ledee v. Devoe*, 250 Ga. App. 15, 549 S.E.2d 167 (2001).

Cited in *Vaid v. State*, 165 Ga. App. 823, 302 S.E.2d 631 (1983); *Keith v. Alexander Underwriters Gen. Agency, Inc.*, 219 Ga. App. 36, 463 S.E.2d 732 (1995); *In re Stoutamire*, 201 Bankr. 592 (Bankr. S.D. Ga. 1996); *Congress Re-Insurance Corp. v. Archer-Western Contractors*, 226 Ga. App. 829, 487 S.E.2d 679 (1997); *Winzer v. EHCA Dunwoody, LLC*, 277 Ga. App. 710, 627 S.E.2d 426 (2006); *Morton v. Horace Mann Ins. Co.*, 282 Ga. App. 734, 639 S.E.2d 352 (2006).

OPINIONS OF THE ATTORNEY GENERAL

Representation of indigents by law students.

- Law students not yet admitted to practice law are not permitted to represent indigent parties in Georgia. 1963-65 Op. Att'y Gen. p. 542; but see 1972 Op. Att'y Gen. No. 72-54.

Person or attorney to appear when driver's license at issue.

- General rule is that no one other than the person whose driver's license is in question, or a duly licensed attorney employed by that person, may appear at a Department of Public Safety hearing on the person's behalf. 1972 Op. Att'y Gen. No. 72-54.

While persons appearing before Department of Public Safety hearing officers on the issue of driver's license revocations generally must either represent themselves or be represented by a licensed attorneys employed by the individuals, when such persons are indigents, the individuals may be accompanied by certified, third-year law students working through an approved legal aid society, who may offer the individuals legal advice during the hearings; since such proceedings are administrative hearings, and not trials, such certified law students may appear at the hearings without licensed counsel accompanying the students. 1972 Op. Att'y Gen. No. 72-54.

Prosecution of claims in magistrate court.

- Only a member of the Georgia State Bar may represent another in a proceeding in magistrate court, but a corporation may appear pro se in such a proceeding by and through its nonattorney officer or employee. 1983 Op. Att'y Gen. No. U83-73.

Insurance contract not providing for insurer's control of attorney not unlawful.

- If the contract specifies that the insurer shall have no voice in the insured's selection of an attorney and, once an attorney is retained, shall neither exercise any control over that attorney nor issue any instructions to the attorney, except instructions as to the procedures to be followed in filing claims under the policy, and the insurer does not contemplate performing any acts which only a licensed member of the bar may perform, that contract does not provide for the unlawful practice of law. 1974 Op. Att'y Gen. No. 74-48.

RESEARCH REFERENCES**Am. Jur. 2d.**

- 7 Am. Jur. 2d, Attorneys at Law, § 119 et seq.

C.J.S.

- 7 C.J.S., Attorney and Client, §§ 32, 39.

ALR.

- Practicing or pretending to practice law without authority as contempt, 36 A.L.R. 533; 100 A.L.R. 236.

Right of corporation to perform or to hold itself out as ready to perform functions in the nature of legal services, 73 A.L.R. 1327; 105 A.L.R. 1364; 157 A.L.R. 282.

Services incident to membership in automobile "association" as practice of law or as ground for discipline of attorney who conducts the "association" or is connected therewith, 106 A.L.R. 548.

What amounts to practice of law, 125 A.L.R. 1173; 151 A.L.R. 781.

Offense of barratry; criminal aspects of champerty and maintenance, 139 A.L.R. 620.

Drafting, or filling in blanks in printed forms, of instruments relating to land by real-estate agents, brokers, or managers as constituting practice of law, 53 A.L.R.2d 788.

Trust company's act as fiduciary as practice of law, 69 A.L.R.2d 404.

Title examination activities by lending institution, insurance company, or title and abstract company, as illegal practice of law, 85 A.L.R.2d 184.

Handling, preparing, presenting, or trying workers' compensation claims or cases as practice of law, 2 A.L.R.3d 724, 58 A.L.R.5th 449.

Operations of collection agency as unauthorized practice of law, 27 A.L.R.3d 1152.

What activities of stock or securities broker constitute unauthorized practice of law, 34 A.L.R.3d 1305.

Sale of books or forms designed to enable layman to achieve legal results without assistance of attorney as unauthorized practice of law, 71 A.L.R.3d 1000.

Nature of legal services or law-related services which may be performed for others by disbarred or suspended attorney, 87 A.L.R.3d 279.

Activities of insurance adjusters as unauthorized practice of law, 29 A.L.R.4th 1156.

Disciplinary action against attorney for aiding or assisting another person in unauthorized practice of law, 41 A.L.R.4th 361.

Jury: who is lawyer or attorney disqualified or exempt from service, or subject to challenge for cause, 57 A.L.R.4th 1260.

Propriety and effect of corporation's appearance pro se through agent who is not attorney, 8 A.L.R.5th 653.

Criminal defendant's representation by person not licensed to practice law as violation of right to counsel, 19 A.L.R.5th 351.

What constitutes "unauthorized practice of law" by out-of-state counsel, 83 A.L.R.5th 497.

What constitutes unauthorized practice of law by paralegal, 109 A.L.R.5th 275.

Unauthorized practice of law - Real estate closings, 119 A.L.R.5th 191.

Propriety of insurers' use of staff attorneys to represent insureds, 2 A.L.R.6th 537.

Drafting of will or other estate-planning activities as illegal or unauthorized practice of law, 25 A.L.R.6th 323.

Application of class-of-one theory of equal protection to public employment, 32 A.L.R.6th 457.

Matters constituting unauthorized practice of law in bankruptcy proceedings, 32 A.L.R.6th 531.

Unauthorized practice of law as contempt, 40 A.L.R.6th 463.

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