

The **Unauthorized Practice of Law (UPL)** involves (i) the application of facts and circumstances of a situation or client to the law, and tailoring your advice accordingly, or (ii) exercising the “professional judgment” of a lawyer (i.e., making a recommendation to a client as to what legal action to pursue).

In other words, acting as a lawyer without a license to practice law

Common questions from clients that can lead to UPL:

- I need a protection order. How can I get one?
- Which one of these forms do I need to fill out?
- Will I get my order today?
- Will my kids be protected?
- What kind of relief can I get from the protection order?
- What do I put here where it says, “Respondent has engaged in the following acts of DV?”
- What should I say when I testify today (civil or criminal court)?
- Will my abuser be convicted?

Non-Attorneys Can:

Help the client access the case file with the clerk’s office

Provide information about the types of legal actions a victim can pursue

Provide examples of approved court forms and explain where to write information



Non-Attorneys Cannot:

Tell the client what needs to be filled or how likely client is to succeed

Tell the client which actions to take or not to take

Advise the client which forms to fill out or how to fill them out

Non-Attorneys Can:

Explain general case management (ex. Number of hearings required for a protection order; continuances may or may not be granted)

Provide legal and procedural definitions

Encourage the client to seek legal advice and provide name(s) of attorneys who have received training in DV/SA issues

Tell a client what you have seen the court do or say in your experience

Provide general information to the public about legal remedies for survivors

Accompany the client to court for support

Advocate for the rights of your client

Non-Attorneys Cannot:

Tell a client how likely their case is to get continued or give an opinion on what the outcome will be

Apply that information to the clients facts or situation

Endorse an attorney for the case or specifically recommend an attorney

Tell the client what the court is likely to do in this case

Tell a specific survivor which action to take or not take

Stand up and speak for the client as an attorney would do

Draft or file any pleadings (including the CPO petition) or argue a legal matter on a clients case to the judge

You cannot tell survivors **what to do**, but you can provide standard information about **how to accomplish what they decide to do**.

Penalties of the Unauthorized Practice of Law

R.C. 4705 Unauthorized Practice of Law¹

- 1st degree Misdemeanor
- Up to 180 days in jail and/or \$1,000 fine
- Civil Damages, which may include attorneys fees

Gov. Bar Rule VII²

- **Board on the Unauthorized Practice of Law of the Supreme Court of Ohio**
 - Has exclusive jurisdiction in hearing allegations of UPL under Gov. Bar Rule VII
- **The Board can impose the following:**
 - Interim Cease and Desist Order
 - Immediately requiring you to stop providing services/advice categorized as UPL
 - Civil penalties up to \$10,000 per offense
 - Costs, which may include:
 - Direct expenses incurred by the hearing panel and the Board, including, but not limited to, the expense of a court reporter and transcript of any hearing before the hearing panel
 - Publication fees

Ohio Crime Victim's Bill of Rights ("Marsy's Law")³

Marsy's Law gives crime victims meaningful and enforceable constitution rights, some are automatic and some must be requested

- **Victims are automatically entitled to:**
 - Be informed of their rights;
 - Be treated with fairness and respect for their safety, dignity, and privacy;

(Continued on back)

- Reasonable protection from the accused or any person acting on behalf of the accused;
 - Receive information about the status of the case;
 - Refuse a defense interview, deposition, or other discovery request unless ordered by the court;
 - Object to defense requests for access to their confidential information, including medical, counseling, school, or employment records, access to their personal devices, online accounts, or other personal information;
 - Be present at all public proceedings, other than grand jury proceedings;
 - Have a support person with them during proceedings;
 - Make statements in certain public proceedings involving victims' rights;
 - Object to unreasonable delays in the case; and
 - Full and timely restitution from the offender
- **Victims must request the right to:**
- Receive notice of the arrest, escape, or release of the offender;
 - Have personal identifying information redacted from case documents before public release;
 - Reasonable and timely notice of all public court proceedings;
 - Confer with the prosecutor assigned to the case;
 - Be notified of subpoenas, motions, or other requests to access any of their personal information; and
 - Appoint a victim's representative

Sources:

¹<https://codes.ohio.gov/ohio-revised-code/section-4705.01>

²<https://casetext.com/rule/ohio-court-rules/ohio-rules-for-the-government-of-the-bar/rule-vii-unauthorized-practice-of-law>

³<https://www.supremecourt.ohio.gov/marsy-s-law-and-crime-victim-rights/>



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Get in touch. Get involved.
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