



TENANT

RESOURCE CENTER

The Line Between Providing Legal Information and Legal Advice

Definitions

The practice of law is governed by [Wisconsin Supreme Court Rule Ch. 23](#).

SCR 23.01 Definition of practice of law.

The practice of law in Wisconsin is the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person(s) where there is a client relationship of trust or reliance and which require the knowledge, judgment, and skill of a person trained as a lawyer. The practice of law includes but is not limited to:

- (1) Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration.
- (2) Selection, drafting, or completion for another entity or person of legal documents or agreements which affect the legal rights of the other entity or person(s).
- (3) Representation of another entity or person(s) in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution process or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review.
- (4) Negotiation of legal rights or responsibilities on behalf of another entity or person(s).
- (5) Any other activity determined to be the practice of law by the Wisconsin Supreme Court.

Only a person licensed to practice law in Wisconsin may engage in the practice of law as defined above.

A person may provide information about the law, including an individual's rights and responsibilities, so long as it is done "in a manner that is not directed at providing specific legal advice to a specific individual in the context of a specific matter." Wisconsin SCR 23.02.

The penalty for practicing law without a license is a fine of \$50-500 and/or imprisonment for up to a year. [Wis. Stat. 757.30.](#)

Guidelines

For a number of reasons, it is vital that TRC staff don't cross over the line and provide legal advice to clients. The most important reason is that we may harm our clients. We are not trained lawyers, our conversations are not protected, and we may end up limiting a person's legal rights and strategic options by giving them inaccurate information or steering them in the wrong direction.

The key principle is that we *give information about the law*, not legal advice about a specific situation. Generally, giving information about the law means providing facts about the law. In contrast, giving legal advice means providing recommendations based on an interpretation of the law.

It is also important that we explain what we do and that we are not lawyers. For example:

- "I work for the Tenant Resource Center. We are not a law firm and I am not an attorney. I cannot recommend what action you should take in this situation."
- "I am not a lawyer. You may want to talk to a lawyer about how this law applies to your specific situation."
- "This situation is complex. I am not a lawyer and can't give you advice on what the best option is for you. You may want to talk with a lawyer."

Examples of giving legal information:

- Telling a person what the law is
 - "The law requires a landlord to tell the tenant what utilities the tenant is responsible for paying before signing a lease or accepting any money from a tenant."
- Telling a person what their options are under the law
 - "It is unlawful for a landlord to include in a lease that you will be immediately evicted and the locks changed if you don't pay rent on the 1st of the month. Some of your options are to tell the prospective landlord this is illegal and you won't sign the agreement, sign the agreement and know that it is illegal, contact an attorney, and/or file a complaint with DATCP. I am not an attorney. I cannot recommend what option is best for your situation."
- Quoting directly from the statute, regulation, or other resource
 - "The Consumer Protection regulations states: *'If a tenant pays rent in cash, the landlord upon receiving the cash payment shall provide the tenant with a written receipt stating the nature and amount of the payment. A landlord is not required to provide a receipt for rent payments made by check.'*"
- Explaining what a law means
 - "Our understanding of this regulation is that your landlord is required to give you a receipt of some type every time you pay your rent in cash."
- Defining a legal concept

- “A tenant at will is a tenant living in a unit without a valid lease and does not pay rent on a regular basis.”
- Providing factual information
 - “If you want to file a discrimination complaint with the City of Madison, you can go to <https://www.cityofmadison.com/civil-rights/find-help>.”
- Explaining a legal process, including timeframes and deadlines
 - “You must file a complaint about housing discrimination within one year after the discriminatory act, for example refusing to rent to you or charging you \$1000/month when they are charging other tenants \$900/month.”
- Legal forms existence and non-specific help filling them out
 - “You can find blank legal forms on the Dane County Court website, or in the Dane County courthouse downstairs in the Law Library.”
 - “I can help you fill in this form if you do not have the ability to put your own words in the form; but I cannot provide you with any suggestions or words of my own to use on this form.”

Examples of giving legal advice:

- Predicting the outcome of a legal issue
 - “It is likely you will lose if you file a lawsuit against your landlord based on those facts.”
- Suggesting a course of action based on your experience with, or understanding of, the law
 - “From what you have told me, I think it would be best if you withheld part of your rent for the month when you did not have heat in your apartment.”
- Interpreting statutes, regulations, or case law or suggesting a course of action based on that interpretation
 - “There is case law supporting the unlawfulness of the types of fees your landlord is charging. You should file a complaint with DATCP about those fees.”
- Applying the law to an individual’s circumstances
 - “Landlords must disclose to you if they knew, or reasonably should have known, that the apartment’s hot water was not working. From what you told me, it sounds like your landlord should have known this and they have violated the law.”
- Telling a person what their options are under the law and suggesting which option would be best for their situation
 - “You have three options under Wisconsin law. From what I have been seeing in court and my experience, you should negotiate a move out date with your landlord.”
- Legal form filling out and specific suggestions
 - “I will fill out this form on your behalf, helping you to find the right words to complete it properly.”
 - “I will tell you which legal form to use for your specific situation.”