

Notes from the MAR Legal Hotline

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Q. I'd like to hire an unlicensed real estate assistant. How can I make sure that I am complying with licensing laws?

A: According to the National Association of REALTORS®, thirteen percent of REALTORS® use at least one personal assistant. While a real estate assistant can be a welcome addition to your busy office, it's important to make sure that you and your unlicensed assistant are complying with Massachusetts licensing laws.

While licensing laws vary from state to state, in Massachusetts it is illegal for an unlicensed real estate assistant to act as a licensed broker or salesman either directly or indirectly. An unlicensed real estate assistant may be subject to fines of up to five hundred dollars for doing so. Massachusetts licensing law states that “no person shall engage in the business of or act as a broker or salesman directly or indirectly, either temporarily or as an incident to any other transaction, or otherwise, unless he is licensed.”

You may also be subjected to fines and license suspension or revocation if your unlicensed real estate assistant violates state licensing laws. To ensure compliance with licensing laws and to make sure that your unlicensed real estate assistant is not acting as a broker or salesman, it's best to set up a written office policy that clearly defines their tasks and responsibilities.

Q: What tasks can my unlicensed real estate assistant perform? What tasks should they avoid?

A: Unlike in some states, Massachusetts does not have specific guidelines that define the tasks that an unlicensed assistant may or may not perform.

Unlicensed real estate assistants should generally be limited to helping with administrative office tasks. Screening phone calls, coordinating appointments, handling correspondence and preparing materials for open houses are examples of standard tasks that do not violate licensing laws. Tasks that should be performed by only a licensed broker or salesman should not be delegated to an unlicensed assistant.

Unlicensed real estate assistants should generally avoid tasks that bring them into direct contact with clients and customers. While unlicensed assistants may schedule appointments with potential clients, they should not provide detailed information about properties or listings. They should also avoid discussing specific details including home value or marketing strategies with potential clients.

Engaging in a conversation about a property or listing that goes beyond an administrative task could violate licensing laws.