

COMMONWEALTH OF MASSACHUSETTS

At the Supreme Judicial Court holden at Boston within and for said Commonwealth on
the twenty-fourth day of October, in the year two thousand and twelve:
present,

HON. RODERICK L. IRELAND)
HON. FRANCIS X. SPINA)
HON. ROBERT J. CORDY)
HON. MARGOT BOTSFORD)
HON. RALPH D. GANTS)
HON. FERNANDE R. V. DUFFLY)
HON. BARBARA A. LENK)

ORDERED: That Chapter Three of the Rules of the Supreme Judicial Court is hereby
amended as follows:

Rule 3:07: By striking out Mass. R. Prof. C. 1.5 (b) and
inserting in lieu thereof the new Rule 1.5(b)
attached hereto;

Rule 3:07: By striking out the last two sentences in Comment
[1] of Mass. R. Prof. C. 1.5;

Rule 3:07: By striking out Comment [2] of Mass. R. Prof. C.

1.5 and inserting in lieu thereof the new Comment
[2] of Mass. R. Prof. C. 1.5 attached hereto;

Rule 3:07:

By striking out Mass. R. Prof. C. Rule 6.5 and
inserting in lieu thereof the new Rule 6.5 attached
hereto.

The amendments accomplished by this order shall take effect on January 1, 2013.

<u>RODERICK L. IRELAND</u>)	Chief Justice
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<u>FRANCIS X. SPINA</u>)	Justices
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<u>ROBERT J. CORDY</u>)	
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<u>MARGOT BOTSFORD</u>)	
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<u>RALPH D. GANTS</u>)	
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<u>FERNANDE R.V. DUFFLY</u>)	
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<u>BARBARA A. LENK</u>)	

RULE 1.5 FEES

(b) (1) Except as provided in paragraph (b)(2), the scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated in writing to the client.

(2) The requirement of a writing shall not apply to a single-session legal consultation or where the lawyer reasonably expects the total fee to be charged to the client to be less than \$500. Where an indigent representation fee is imposed by a court, no fee agreement has been entered into between the lawyer and client, and a writing is not required.

Rule 1.5

Comment [2]

[2]. A written statement concerning the fee reduces the possibility of misunderstanding. Furnishing the client with a simple memorandum or a copy of the lawyer's customary fee schedule is sufficient if the scope of the representation and the basis or rate of the fee is set forth. Ordinarily, the lawyer should send the written fee statement to the client before any substantial services are rendered. Where the client retains a lawyer for a single-session consultation or where the total fee to the client is reasonably expected to be less than \$500, a writing is not required, although the scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client.

RULE 6.5 NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICES PROGRAMS

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is not subject to Rule 1.5(b);

(2) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(3) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(3), Rule 1.10 is inapplicable to a representation governed by this Rule.

Comment

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services -- such as advice or the completion of legal forms -- that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9 and 1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(3). Paragraph (a)(3) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.