Lawyer Billing Ethics: Billing Tips for New Lawyers

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As a new lawyer, law firm billing can be daunting. You want to make sure you're billing correctly and ethically, but you also don't want to spend too much time on billing (which is non-billable). If you're a summer associate or a new lawyer trying to navigate the challenges of billing, stay tuned to find tips for billing that will help you navigate the waters of legal billing.

In this article, I'll discuss the most common billing methods for lawyers and the ethical duties when it comes to billing. I'll give tips on how to track your time efficiently, how to bill for various legal services, and how to handle client invoices.

MRPC 1.5. Overview

Before we dive in, it's important to note (despite being obvious) that we'll discuss the Model Rules of Professional Conduct (MRPC) 1.5. Still, you will need to follow your state's Rules of Professional Conduct to ensure that you are compliant in your state.

What is a Reasonable Fee?

MRPC 1.5 discusses client agreements, attorneys' fees, and contingency fees. The main discussion in Model Rule 1.5 is what factors make a fee considered reasonable. The rule explicitly lists eight factors among those that determine if a fee is reasonable:

1. Time and labor required, novelty & difficulty of issues, a skill required
2. The likelihood that would preclude other employment
3. The fee customarily charged for similar services and in similar areas
4. The amount involved and results obtained
5. Time limitations under which operating
6. Nature and length of the relationship
7. Experience, reputation & ability of the lawyer

8. Whether the fee is fixed or contingent

While the eight factors listed in Model Rule 1.5 are not exhaustive, they provide a good starting point for determining what is considered a reasonable fee. Keep in mind that each state’s Rules of Professional Conduct may have additional factors to consider when determining reasonableness.

When billing your clients and ensuring law firm profitability, be sure to take into account the time and labor required, the difficulty of the issues involved, as well as your skill level and experience. And always remember to be transparent with your clients about what you’re charging them.

Put the Fee Agreement in Writing

When it comes to legal billing, it's essential to put the fee in writing. A fee agreement, sometimes known as a retainer agreement or a representation agreement, is a legal contract that describes the terms of the attorney-client relationship. The agreement should specify your legal fees and who will work on the issue.

A written fee agreement will ensure that both you and your client are on the same page, and it will help prevent any misunderstandings; your client can refer to it later if there are any questions or disputes about the bill.

The fee agreement should state:

- How much money you will charge
- The lawyer’s hourly rates
- A mention of anyone else in the lawyer’s office who works on the case
- How often you will invoice
- A description of expected expenses

Considerations for Contingency Fees

A contingent fee agreement needs to be in writing and signed by the client. That fee agreement needs to explain the basis of the fee, including the percentage, and detail any specifics like percentage to the law firm in the event of settlement, trial, and appeal.

If you take a case on a contingent fee basis, you agree to assume financial risk. So, if the case is a loss, you will not recover any fees. It’s imperative to detail all expenses the client may be liable for in case of a loss at the start of the matter.

If applicable, the client fee agreement should detail expenses that will be deducted from the recovery. Note if the costs will be deducted before or after calculating the contingent fee. Finally, the agreement must notify the client of any expenses for which the client might be liable.
7 Common Issues With Billing Practices

Model Rules 8.4 and its state counterparts restrict behavior that includes deception, fraud, and misrepresentation. Below are some of the common pitfalls that include misrepresented fees and services.

1. Double Billing

At its most basic definition, double billing is when you invoice two clients for work done during the same time period. If you end up doing an hour of research that can apply to two matters, split the difference and invoice each client .50 (30 minutes).

Double billing becomes more of an issue if you are traveling for a client matter but end up doing work for a second client during the travel downtime. It’s great to be proactive, but you might be better off single-tasking on the primary matter at hand.

2. Block Billing

Lumping together many distinct tasks into a single billing entry is block billing. This billing practice is dubious because you fail to accurately report the time it took for each task individually. Timesheets need to be clear and easily interpreted by someone reviewing them.

There may be instances where block billing is appropriate, like during travel. But generally, avoiding block billing is a best practice that benefits the client, and if a fee dispute later arises, you’ll be thankful you took the time to have accurate timesheets.

3. Marking Up Your Time

Inflating your time spent working is the same as marking up your time. Only invoice for your time working on a matter to ensure that you are not overcharging your clients and help maintain a good relationship with them.

4. Excessive Billing and "Value" Billing

This one might be a bit obvious, but be sure that you only bill for services provided when you bill your client. Some attorneys have claimed that the value of their services is enough to charge additional fees and high rates.

Many fee disputes occur when a client perceives that an attorney has billed an unreasonable or excessive time on specific tasks. Unlike marking up timesheets, if there are legitimate reasons tasks took longer than anticipated, you can talk to your client and give them precise, descriptive time entries. You can use this dispute to educate a client about your work and potentially avoid a fee dispute down the road.

5. Charging For Unnecessary Processes

Generally speaking, you will want to avoid wasteful, unnecessary, or redundant processes. There are instances of lawyers charging for unnecessary travel (think: this trip could have been an email).
Of course, those are egregious circumstances. Start small in your work routine. As you get comfortable in your work processes, start seeing where you can trim down any inefficient processes. Pro tip: there is a lot of fat that can be trimmed when it comes to streamlining client intake.

6. Maximizing Your Minimum Time Increments

Don't be the attorney who bills in half-hour or hour increments (yes, it's happened). The issue with billing at a slightly higher rate, even at .25 hours (15 minutes), is that there might be too much padding for the billable tasks. Billing at .25 hours might inflate the invoice. If there were to be a fee dispute, a higher time increment would be examined thoroughly.

There will be a standardized rate at your law firm that you must follow. The standard increments, which are more about convenience, used by most firms are as follows.

- 1/10 of an hour (6 min)
- 1/6 of an hour (10 min)
- 1/4 of an hour (15 min)

Take a reasonable and balanced approach and choose the billing increment that is acceptable for your practice area.

7. Charging Clients for Law Office Overhead

More simply put, do you bill a client for creating a bill? Clients do not expect to pay for your administrative tasks. It's best to remit tasks like accounting services to general services done by the law firm.

The ABA has declared this unethical, but many states handle this differently. Some states say it's permissible to include overhead as long as you clearly state those fees in the client fee agreement. You can always reach out to your state's Ethics or Grievance department to talk through the appropriate billing practices for your firm.

11. Tips to Get You from Billing Novice to Invoicing All-Star

When starting out as a young lawyer, it's essential to track your time efficiently, bill for various services, and handle client invoices. Practice makes perfect, and it is possible that introducing these methods can make you more efficient and effective.

Billing clients is a highly challenging aspect of any practice. However, the company must develop a good timekeeping and billing process. Technology has helped with many complex tasks and considerably reduced the time involved.

1. Know Your Law Firm Billing Processes

Your law firm must establish a clear, documented billing policy that will give you a reference point and create a standardized process. But you'll find that billing processes vary between law firms. For
example, some clients do not pay for meetings with other lawyers in the office, lawyer travel time, and
time spent doing administrative tasks.

2. Invoice requirements

There may be specific invoice requirements and formats at your firm. Typically, invoices require the
matter name and unique identifier (usually a case number), a description of the work completed, and
the timekeeping information (name, title, rate). Standardizing your invoices helps maintain consistent
customer service, ensuring smooth billing processes.

3. Explain the Legal Fees in the Agreement

As it's one of the tenants of MRPC 1.5, it is critical to get everything in writing when it comes to legal
billing. A representation agreement is a legal contract that gives a clear overview of the attorney-
client relationship. You will specify the terms of your fees, your colleagues who will handle the
problem, and the period you will work together.

The attorney-client agreement can serve as a resource; in case there are any concerns or disputes
regarding the bill, they can refer to it again. Ultimately, an agreement will guarantee that both you and
your client are on the same page.

4. Be a Better Time Keeper

You can keep track of your time in different ways. It is essential to record the time you spend on work
tasks as soon as you do them. You can use a legal pad, a billing program, or even your smartphone
to do this.

Additionally, you can estimate the amount of time a task will take before starting it. Knowing how long
you expect to take on a task will help you stay on track and avoid underestimating or overestimating
the amount of time a particular task will take.

The most important thing is to be consistent in keeping track of your time. This way, your records will
be accurate.

5. Start Using Minimum Time Increments

Instead of jotting down something as short as two minutes and 38 seconds for email or 46 seconds
for document submission to the customer and putting it all up, use the 10-tenth hour minimum time
increment. Any task, or set of tasks, that is one to six minutes denotes 0.1, or a tenth of an hour.
From there - you scale up, so between 8 - 12 minutes is 0.2, 13 - 18 minutes becomes 0.3, etc.

Experienced senior lawyers utilize this billing best practice to ensure their time is never under-
reported, as it helps to add more value to the minutes. Check with your law firm to see their standard
minimum time increment.

6. Enter Time Daily

From here, I think you're getting the hint that the more frequently you track your time, the better odds
of capturing an accurate picture of your work daily.
One way to ensure that you track your time daily is to make it a habit. You can do this by setting aside a specific time each day to review your time entries and update your timesheet, which will help you stay on top of your work and ensure that your billing records are accurate. Timekeeping and billing software makes this as seamless as possible. Read our post on legal process outsourcing for more information.

7. Single task

Single-tasking means that you do one thing at a time. So, when you are editing a brief for a matter, you aren't also answering phone calls or checking email. To be better at single-tasking, you need to create an environment conducive to it. So, turn off notifications on your phone and computer, close any unnecessary tabs in your internet browser, and keep your workspace organized. You may also want to set time limits for how long you work on certain tasks so that you're not distracted by other things.

8. Don't Underestimate Your Time

Underestimating your time can happen for two reasons. First, if you are not keeping consistent records of your tasks, you may forget tasks, like phone calls, you've completed. This omission will make it appear you spent less time on a matter than you did.

The other reason for underestimating time is that sometimes new lawyers think they should be faster as a task than they are. Talk to your manager instead of getting in your head about your speed and pace. Ask them what amount of time they expect tasks to take. In the meantime, those tasks to you the time you tracked- so write it down.

9. Break Down Your Entries

As for the billing entries, divide the tasks into separate entries to make sense of the cost of the time. For example, a review of medical records does not require time if it is voluminous. The bill is for “Review and preparation of draft medical documentation.” Give the customer several pages and why this project is beneficial.

10. Itemize Your Bills

Start noting the timed breakdown of your tasks and activities on your bills. Itemizing your bills will help you avoid block billing. Below is an example of a detailed time-tracked list.

02/22/2022: Zoom conf. with expert witness Wardle (1.0); reviewing documents for cross prep (.3); sent comms to and from client re: files (.3); reviewed new eDiscovery files (2.4); prepared exhibits for defendant (1.5); Zoom conf. with court for motions (.5).

Total: 6.0 hours

11. Master your Billable Time

Tracking your time diligently and detailed with a law firm CRM will add administrative time to your workday. But the lasting value is that you won't have to go back to recreate a day or weeks' worth of billable time--which would be nearly impossible to do accurately.
You have a responsibility to your clients, which is why billing ethics are so important. The tips we've outlined today should help bill with ease and efficiency. Remember, following these steps will ensure you maintain professionalism in all aspects of your practice. It not only helps you stay out of trouble but also creates transparency with your clients.

FREQUENTLY ASKED QUESTIONS

How do new lawyers get better at billing?

New lawyers can do a few things to get better at billing. First, they should track their time accurately and break down their tasks into separate entries. This will help them to understand the cost of the time they are spending on each activity. Second, new lawyers can itemize their bills using detailed timesheets to avoid block billing.

Finally, they should master their billable time to bill clients for the work they have completed accurately. By following these tips, new lawyers can bill easier and ensure that they are getting paid for their work.

How do you calculate billable hours for a lawyer?

To start calculating billable hours, you need to know your minimum time increment for work. Most attorneys invoice in increments of six minutes, but some law firms choose to bill in 10-minute or 15-minute increments.

Lawyers need to track their time and break it down into specific tasks to calculate billable hours. Itemizing an invoice gives transparency into how much each service or activity costs.

When billing by the hour, it's important to keep track of the time you're spending on each task. This will help you stay organized and ensure that you're billing accurately. You should also break down your tasks into separate entries to understand the cost of each activity.

Do lawyers double bill?

Double billing is when a lawyer bills a client for the same work twice. This can be an ethical issue, as it can misrepresent the lawyer's time and services to the client.

Double billing can also be illegal in some cases, leading to overbilling of clients. Lawyers who double bill may be subject to disciplinary action from their state bar association.

Lawyers need to avoid double billing to maintain transparency with their clients. By billing accurately and honestly, lawyers can build trust with their clients and avoid potential issues.

What are the most common types of billing methods for lawyers?

There are three common types of billing methods for attorneys. The type of practice typically dictates which method a law firm will use.

Hourly rates are the most common type of billing method for lawyers. The hourly billing method uses a fixed rate, and the lawyer charges for the amount of time spent on a matter.
Fixed rates are a common billing method for lawyers. With a fixed rate, the lawyer charges a set price for the scope of their work. Both parties are aware of the cost of the work ahead of time.

Contingency fees are a fee arrangement in which the lawyer receives a percentage of the damages awarded to the client. Alternatively, the lawyer can receive a set amount regardless of the case’s outcome. This fee arrangement is common in personal injury cases and is beneficial to both the lawyer and the client.

What are the ethical duties of a lawyer when it comes to billing?

There are several ethical duties that lawyers must adhere to when billing. First, they must be accurate and truthful in their billing statements. Lawyers should not misrepresent the time they spend on a task or the services they provide. Second, lawyers must charge a fair and reasonable fee for their services, so they cannot overcharge or bill for work not completed. Third, lawyers should avoid double billing to maintain transparency with their clients. By billing accurately and honestly, lawyers can build trust with their clients and avoid potential issues.

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