

## NEW PROPOSED RULE 1-650 (CLEAN VERSION)

### Rule 1-650. Limited Legal Services Programs

- (A) A member who, under the auspices of a program sponsored by a court, government agency, bar association, law school, nonprofit organization, or a qualified legal services project or qualified support center within the meaning of Business and Professions Code § 6213, provides short-term limited legal services to a client without expectation by either the member or the client that the member will provide continuing representation in the matter:
- (1) is subject to rule 3-310 only if the member knows that the representation of the client involves a conflict of interest; and
  - (2) is subject to an imputed conflict of interest only if the member knows that another lawyer associated with the member in a law firm would be subject to a conflict of interest under rule 3-310 with respect to the matter.
- (B) Except as provided in paragraph (A)(2), a conflict of interest that arises from a member's participation in a program under paragraph (A) will not be imputed to the member's law firm.

#### *Discussion:*

[1] Courts, government agencies, bar associations, law schools 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 lawyer-client 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.

[2] A member who provides short-term limited legal services pursuant to rule 1-650 must secure the client's informed consent to the limited scope of the representation. If a short-term limited representation would not be reasonable under the circumstances, the member may offer advice to the client but must also advise the client of the need for further assistance of counsel. See rule 3-110. Except as provided in this rule 1-650, the Rules of Professional Conduct and the State Bar Act, including the member's duty of confidentiality under Business and Professions Code § 6068(e)(1), are applicable to the limited representation.

[3] A member who is representing a client in the circumstances addressed by rule 1-650 ordinarily is not able to check systematically for conflicts of interest. Therefore, paragraph (A)(1) requires compliance with rule 3-310 only if the member knows that the representation presents a conflict of interest for the member. In addition, paragraph (A)(2) subjects the member to imputed conflicts of interest only if the member knows that another lawyer in the member's law firm is disqualified by rule 3-310.

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[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the member's law firm, paragraph (B) provides that imputed conflicts of interest are inapplicable to a representation governed by this rule except as provided by paragraph (A)(2). Paragraph (A)(2) makes the participating member subject to imputed conflicts of interest when the lawyer knows that any lawyer in the member's law firm is disqualified by rule 3-310. By virtue of paragraph (B), moreover, a member's participation in a short-term limited legal services program will not be imputed to the member's law firm or preclude the member's law 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 rule 1-650, a member undertakes to represent the client in the matter on an ongoing basis, rule 3-310 and all other rules become applicable.

## COMPARISON TO ABA MODEL RULE

### Rule ~~6.5 Nonprofit And Court Annexed~~ 1-650. Limited Legal Services Programs

- (~~a~~)A ~~lawyer~~member who, under the auspices of a program sponsored by a court, government agency, bar association, law school, nonprofit organization, or ~~court~~ qualified legal services project or qualified support center within the meaning of Business and Professions Code § 6213, provides short-term limited legal services to a client without expectation by either the ~~lawyer~~member or the client that the ~~lawyer~~member will provide continuing representation in the matter:
- (1) is subject to ~~Rules 1.7 and 1.9(a)~~rule 3-310 only if the ~~lawyer~~member knows that the representation of the client involves a conflict of interest; and
  - (2) is subject to ~~Rule 1.10~~an imputed conflict of interest only if the ~~lawyer~~member knows that another lawyer associated with the ~~lawyer~~member in a law firm ~~is disqualified by Rule 1.7 or 1.9~~(would be subject to a) conflict of interest under rule 3-310 with respect to the matter.
- (~~b~~)B Except as provided in paragraph (~~a~~)A(2), ~~Rule 1.10 is inapplicable to a representation governed by this Rule~~conflict of interest that arises from a member's participation in a program under paragraph (A) will not be imputed to the member's law firm.

#### ~~Comment~~Discussion:

[1] ~~Legal services organizations~~Courts, ~~courts~~government agencies, bar associations, law schools 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-~~client~~ 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~~member who provides short-term limited legal services pursuant to ~~this Rule~~rule 1-650 must secure the client's informed consent to the limited scope of the representation. ~~See Rule 1.2(e).~~ If a short-term limited representation would not be reasonable under the circumstances, the ~~lawyer~~member may offer advice to the client but must also advise the client of the need for further assistance of counsel. See rule 3-110. Except as provided in this ~~Rule~~rule 1-650, the Rules of Professional Conduct and the State Bar Act, including ~~Rules 1.6~~the member's duty of confidentiality under Business and Professions Code § 6068(~~ee~~)(1), are applicable to the limited representation.

[3] ~~Because a lawyer~~ A ~~member~~ who is representing a client in the circumstances addressed by ~~this Rule~~rule 1-650 ordinarily is not able to check systematically for conflicts of

## COMPARISON TO ABA MODEL RULE

interest. Therefore, paragraph ~~(aA)~~(1) requires compliance with ~~Rules 1.7 or 1.9(a)~~rule 3-310 only if the ~~lawyer~~member knows that the representation presents a conflict of interest for the ~~lawyer~~member. In addition, ~~and with Rule 1.10~~paragraph (A)(2) subjects the member to imputed conflicts of interest only if the ~~lawyer~~member knows that another lawyer in the ~~lawyer's~~member's law firm is disqualified by ~~Rules 1.7 or 1.9(a)~~in the matterrule 3-310.

[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~~member's law firm, paragraph ~~(bB)~~ provides that ~~Rule 1.10 is~~imputed conflicts of interest are inapplicable to a representation governed by this ~~Rule~~rule except as provided by paragraph ~~(aA)~~(2). Paragraph ~~(aA)~~(2) ~~requires~~makes the participating ~~lawyer~~member subject to ~~comply with Rule 1.10~~imputed conflicts of interest when the lawyer knows that any lawyer in the ~~lawyer's~~member's law firm is disqualified by ~~Rules 1.7 or 1.9(a)~~rule 3-310. By virtue of paragraph ~~(bB)~~, ~~however~~moreover, a ~~lawyer's~~member's participation in a short-term limited legal services program will not be imputed to the member's law firm or preclude the ~~lawyer's~~member's law 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~~rule 1-650, a ~~lawyer~~member undertakes to represent the client in the matter on an ongoing basis, ~~Rules 1.7, 1.9(a)~~rule 3-310 and ~~1.10~~all other rules become applicable.