



The State Bar of California

Rule 6.5 Limited Legal Services Programs (Rule Approved by the Supreme Court, Effective November 1, 2018)

- (a) A lawyer who, under the auspices of a program sponsored by a court, government agency, bar association, law school, or nonprofit organization, 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 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
 - (2) is subject to rule 1.10 only if the lawyer knows* that another lawyer associated with the lawyer in a law firm* is prohibited from representation by rule 1.7 or 1.9(a) with respect to the matter.
- (b) Except as provided in paragraph (a)(2), rule 1.10 is inapplicable to a representation governed by this rule.
- (c) The personal disqualification of a lawyer participating in the program will not be imputed to other lawyers participating in the program.

Comment

[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* in addressing 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, whenever a lawyer-client relationship is established, there is no expectation that the lawyer's representation of the client will continue beyond that 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 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(b).) 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, these rules and the State Bar Act, including the lawyer's duty of confidentiality under Business and Professions Code section 6068, subdivision (e)(1) and rules 1.6 and 1.9, are applicable to the limited representation.

[3] 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. Therefore, paragraph (a)(1) requires compliance with rules 1.7 and 1.9(a) only if the lawyer knows* that the representation presents a conflict of interest for the lawyer. In addition,

paragraph (a)(2) imputes conflicts of interest to the lawyer only if the lawyer knows* that another lawyer in the lawyer's law firm* would be disqualified under rules 1.7 or 1.9(a).

[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 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) imputes conflicts of interest to the participating lawyer when the lawyer knows* that any lawyer in the lawyer's firm* would be disqualified under rules 1.7 or 1.9(a). By virtue of paragraph (b), moreover, a lawyer's participation in a short-term limited legal services program will not be imputed to the lawyer's law firm* or preclude the lawyer'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, 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.

**NEW RULE OF PROFESSIONAL CONDUCT 6.5
(Former Rule 1-650)
Limited Legal Services Programs**

EXECUTIVE SUMMARY

The Commission for the Revision of the Rules of Professional Conduct (“Commission”) evaluated current rule 1-650 (Limited Legal Services Programs) in accordance with the Commission Charter. In addition, the Commission considered the national standard of ABA Model Rule 6.5 (Nonprofit And Court-Annexed Limited Legal Services Programs). The Commission also reviewed relevant California statutes, rules, and case law relating to the issues addressed by the proposed rules. The result of the Commission’s evaluation is proposed rule 6.5 (Limited Legal Services Programs).

Rule As Issued For 90-day Public Comment

Proposed rule 6.5 carries forward the substance of current rule 1-650, which was originally derived from Model Rule 6.5. The rule promotes legal services activities by lawyers and aids in addressing the current access to the justice crisis in California.

Paragraph (a) states that if a lawyer provides short-term limited legal services to a client through a program sponsored by a court, government agency, bar association, law school or nonprofit organization the lawyer is:

- (1) subject to rules 1.7 [Conflict of Interest: Current Clients] and 1.9 [Duties To Former Clients] if the lawyer knows that the representation of the client involves a conflict of interest;
- (2) subject to rule 1.10 [Imputation of Conflicts of Interest: General Rule] if the lawyer knows that an associated lawyer in a law firm is prohibited from representation by rules 1.7 [Conflict of Interest: Current Clients] and 1.9 [Duties To Former Clients].

Paragraph (b) clarifies that rule 1.10 [Imputation of Conflicts of Interest] is inapplicable to proposed rule 6.5 outside of the specific language of 6.5(a)(2).

Paragraph (c) states that personal disqualification of a lawyer in a legal services program will not be imputed to lawyers participating in the same program.

The comments to the proposed rule are all derived from the Discussion paragraphs to current rule 1-650.

Comment [1] explains that the protections afforded by the rule are applicable in those situations where there is no expectation that the lawyer’s representation of a client will continue beyond the limited consultation through legal services programs, in which it is unfeasible for a lawyer to systematically screen for conflicts of interest. (Compare Comment [5].)

Comment [2] requires the client’s informed consent to the limited scope representation when a lawyer provides short-term limited legal services. Furthermore, a lawyer’s duty of confidentiality to the client is applicable to the limited representation.

Comment [3] reiterates that the lawyer must have actual knowledge that the representation presents a conflict of interest for the lawyer.

Comment [4] reiterates that imputation of conflicts of interest is applicable only when the lawyer has actual knowledge that another lawyer in the lawyer’s law firm would be disqualified. In

addition, imputation will not preclude the disqualified lawyer's law firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the legal service program's auspices.

Comment [5] clarifies that rules 1.7 [Conflict of Interest: Current Clients], 1.9 [Duties To Former Clients] and 1.10 [Imputation of Conflicts of Interest] are applicable when the lawyer undertakes to represent the client in the matter on an ongoing basis.

Post-Public Comment Revisions

After consideration of comments received in response to the initial 90-day public comment period, the Commission made non-substantive stylistic edits and voted to recommend that the Board adopt the proposed rule.

The Board adopted proposed rule 6.5 at its November 17, 2016 meeting.

Supreme Court Action (May 10, 2018)

The Supreme Court approved the rule as submitted by the State Bar to be effective November 1, 2018. An omitted asterisk for a defined term was added by the Court.

Rule ~~6.5-1-650~~ Limited Legal Services Programs
(Redline Comparison to the California Rule Operative Until October 31, 2018)

- (Aa) A ~~member~~lawyer who, under the auspices of a program sponsored by a court, government agency, bar association, law school, or nonprofit organization, provides short-term limited legal services to a client without expectation by either the ~~member~~lawyer or the client that the ~~member~~lawyer will provide continuing representation in the matter:
- (1) is subject to ~~rule 3-310~~rules 1.7 and 1.9(a) only if the ~~member~~lawyer knows* that the representation of the client involves a conflict of interest; and
 - (2) ~~has an imputed conflict of interest~~is subject to rule 1.10 only if the ~~member~~lawyer knows* that another lawyer associated with the ~~member~~lawyer in a law firm ~~would have a conflict of interest under rule 3-310*~~is prohibited from representation by rule 1.7 or 1.9(a) with respect to the matter.
- (Bb) Except as provided in paragraph (Aa)(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~~rule 1.10 is inapplicable to a representation governed by this rule.
- (Cc) The personal disqualification of a lawyer participating in the program will not be imputed to other lawyers participating in the program.

Discussion**Comment**

[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* in addressing 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, whenever a lawyer-client relationship is established, there is no expectation that the lawyer's representation of the client will continue beyond that 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~~lawyer who provides short-term limited legal services pursuant to this rule 1-650 must secure the client's informed consent* to the limited scope of the representation. (See rule 1.2(b).) If a short-term limited representation would not be reasonable* under the circumstances, the ~~member~~lawyer 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, these rules~~ and the State Bar Act, including the ~~member's~~lawyer's duty of confidentiality under

Business and Professions Code [§section 6068, subdivision \(e\)\(1\) and rules 1.6 and 1.9](#), are applicable to the limited representation.

[3] A [memberlawyer](#) who is representing a client in the circumstances addressed by [this rule 1-650](#) ordinarily is not able to check systematically for conflicts of interest. Therefore, paragraph (Aa)(1) requires compliance with ~~rule 3-310~~[rules 1.7 and 1.9\(a\)](#) only if the [memberlawyer](#) knows* that the representation presents a conflict of interest for the [memberlawyer](#). In addition, paragraph (Aa)(2) imputes conflicts of interest to the [memberlawyer](#) only if the [memberlawyer](#) knows* that another lawyer in the [member'slawyer's](#) law firm* would be disqualified under ~~rule 3-310~~[rules 1.7 or 1.9\(a\)](#).

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the [member'slawyer's](#) law firm,* paragraph (Bb) provides that imputed conflicts of interest are inapplicable to a representation governed by this rule except as provided by paragraph (Aa)(2). Paragraph (Aa)(2) imputes conflicts of interest to the participating [memberlawyer](#) when the [memberlawyer](#) knows* that any lawyer in the [member'slawyer's](#) firm* would be disqualified under ~~rule 3-310~~[rules 1.7 or 1.9\(a\)](#). By virtue of paragraph (Bb), moreover, a [member'slawyer's](#) participation in a short-term limited legal services program will not be imputed to the [member'slawyer's](#) law firm* or preclude the [member'slawyer's](#) law firm* from undertaking or continuing the representation of a client with interests adverse to a client being represented under the ~~program's~~[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 1-650](#), a ~~member, a lawyer~~ undertakes to represent the client in the matter on an ongoing basis, ~~rule 3-310 and all other~~ rules [1.7, 1.9\(a\), and 1.10](#) become applicable.