

Committee on Disciplinary Rules and Referenda Proposed Rule Changes

Texas Disciplinary Rules of Professional Conduct Rule 6.05. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

The Committee on Disciplinary Rules and Referenda, or CDRR, was created by Government Code section 81.0872 and is responsible for overseeing the initial process for proposing a disciplinary rule. Pursuant to Government Code section 81.0876, the committee publishes the following proposed rule. The committee will accept comments concerning the proposed rule through July 1, 2019. Comments can be submitted at texasbar.com/CDRR. A public hearing on the proposed rule will be held at 10:30 a.m. on April 18, 2019, at the Texas Law Center in Austin, Texas.

Proposed Rule (Redline Version)

Rule 6.05. Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services

(a) The conflicts of interest limitations on representation in Rules 1.06, 1.07, and 1.09 do not prohibit a lawyer from providing, or offering to provide, limited pro bono legal services unless the lawyer knows, at the time the services are provided, that the lawyer would be prohibited by those limitations from providing the services.

(b) Lawyers in a firm with a lawyer providing, or offering to provide, limited pro bono legal services shall not be prohibited by the imputation provisions of Rules 1.06, 1.07, and 1.09 from representing a client if that lawyer does not:

(1) disclose confidential information of the pro bono client to the lawyers in the firm; or

(2) maintain such information in a manner that would render it accessible to the lawyers in the firm.

(c) The eligibility information that an applicant is required to provide when applying for free legal services or limited pro bono legal services from a program described in subparagraph (d)(1) by itself will not create a conflict of interest if:

(1) the eligibility information is not material to the legal matter; or

(2) the applicant's provision of the eligibility information was conditioned on the applicant's informed consent that providing this information would not by itself prohibit a representation of another client adverse to the applicant.

(d) As used in this Rule, "limited pro bono legal services" means legal services that are:

(1) provided through a pro bono or assisted pro se program sponsored by a court, bar association, accredited law school, or nonprofit legal services program;

(2) short-term services such as legal advice or other brief assistance with pro se documents or transactions, provided either in person or by phone, hotline, internet, or video conferencing; and

(3) provided without any expectation of extended representation of the limited assistance client or of receiving any legal fees in that matter.

(e) As used in this Rule, a lawyer is not "in a firm" with other lawyers solely because the lawyer provides limited pro bono legal services with the other lawyers.

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