

Connecticut
Formal and Informal Opinions

Connecticut Bar Association
Committee on Professional Ethics
Informal Opinion 99-27
[Revising Informal Opinion 91-16]
Lawyer Referral Service
May 14, 1999

You have asked whether the Rules of Professional Conduct require an attorney to have some form of written agreement with a client if that client came to the attorney by referral from a lawyer referral service. The lawyer referral service will receive from the attorney 10% of whatever fee, if any, is paid to the attorney by the client for the matter which was the subject of the referral. You have correctly stated that Rule 7.2(c) does permit a lawyer to pay a lawyer referral service a percentage of the fee received by the lawyer. See Informal Opinion 87-9.

In reviewing your question, we have focused on Rule 1.5. Section (b) of that Rule requires that all fee arrangements be communicated with the client, and they must be in writing where the lawyer has not regularly represented the client. The written fee arrangement must further state to what extent, if any, the client will be responsible for any court costs and expenses of litigation. Section (c) requires the fee arrangement to be in writing if the fee is contingent. The fact that the lawyer referral service is compensated in direct relationship with the compensation received by the attorney does not, however, make that arrangement a contingent fee agreement within the scope of Section (c). Further, neither of those sections require a disclosure of the attorney's fee relationship with the lawyer referral service.

Section (e) requires disclosure of the division of fees. The prior practice of the lawyer referral service called for a fixed annual fee for a panel member. That fee had no relationship to fees earned by the lawyer. The new 10% procedure will have a direct relationship and, therefore, may be considered a "division of fees" as contemplated by Section (e). Further, the fees go to benefit the lawyer referral service which in turn benefits the other lawyers who are members of that service and/or the Bar Association itself. While the fee would thus benefit other "lawyers who are not in the same firm" this Committee does not feel that result is within the intention of Section (e).

Accordingly, it is the opinion of this Committee that the Rules of Professional Conduct do not specifically require a writing signed by the client acknowledging or consenting to the lawyer referral service percentage fee arrangement with the attorney.