Sharing Fees in Alabama

HOW TO ETHICALLY SHARE FEES

A fee division is allowed for contingency matters if the client is informed and does not object. For flat fee matters, proportionality or joint responsibility is required.

Alabama Rule

Alabama Rules of Professional Conduct Rule 1.5(e) notes:

(e) *A division of fee between lawyers who are not in the same firm, including a division of fees with a referring lawyer, may be made only if:*

(1) *either*

- ***(a)*** *the division is in proportion to the services performed by each lawyer, or*
- ***(b)*** *by written agreement with the client, each lawyer assumes joint responsibility for the representation, or*
- ***(c)*** *in a contingency fee case, the division is between the referring or forwarding lawyer and the receiving lawyer;*

(2) *the client is advised of and does not object to the participation of all the lawyers involved;*

(3) *the client is advised that a division of fee will occur; and*

(4) *the total fee is not clearly excessive.*

Conclusion

Alabama is unique in that joint responsibility is not required, nor must the client be informed of the proportion of fee divisions. While disclosure to the client is required, the client is not required to consent in writing. Even though the courts have expressly confirmed this conclusion (Ethics Opinion, FO 2023-01), it is still recommended to inform the client in writing of fee divisions.

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Sharing Fees in Alaska

HOW TO ETHICALLY SHARE FEES

A fee division is permitted in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Alaska Rule

Alaska Rules of Professional Conduct Rule 1.5(e) makes clear:
(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the contribution of each firm or, by written agreement with the client, each firm assumes joint responsibility for the representation;*
(2) *the client agrees to the participation of each firm, including the share each firm will receive, and the participation is confirmed to the client in writing; and*
(3) *the total fee is reasonable.*

Conclusion

Alaska follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee divisions and joint responsibility must be approved in writing. The only deviation is that Alaska replaces the standard “attorney” with “firm” for the purposes of work performed.

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Sharing Fees in Arizona

HOW TO ETHICALLY SHARE FEES

Arizona allows referral fees to both attorneys and non-attorneys. However, for attorneys to share fees, the share must be in proportion to work performed or joint responsibility must still be assumed and the client must consent in writing.

Arizona Rule

Arizona Rules of Professional Conduct 1.5:
(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*

(1) *the division is in proportion to the services performed by each lawyer or each lawyer receiving any portion of the fee assumes joint responsibility for the representation;*
(2) *the client agrees, in a writing signed by the client, to the participation of all the lawyers involved and the division of the fees and responsibilities between the lawyers; and,*
(3) *the total fee is reasonable.*

Conclusion

Arizona stands alone, in that ABA Model Rule 5.4 (prohibiting fees to non-attorneys) was abolished. Now, attorneys may pay a referral fee to anyone, including non-attorneys. However, Rule 1.5(e) requiring attorneys who share fees to assume joint responsibility, or share in proportion to work performed, and must obtain the client's consent in writing, still remains in effect.

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Sharing Fees in Arkansas

HOW TO ETHICALLY SHARE FEES

A fee division is permitted in proportion to work performed, or if attorneys assume joint responsibility, fee divisions are outlined, and the client approves in writing.

Arkansas Rule

Arkansas Rules of Professional Conduct Rule 1.5(e) notes:
(e) *A division of fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or, by written agreement with the client, each lawyer assumes joint responsibility for the representation;*
(2) *the client is advised of and does not object to the participation of all the lawyers involved; and*
(3) *the total fee is reasonable.*

Conclusion

Arkansas follows the ABA Model rules for proportionality or joint assumption of responsibility, approved in writing by the client with fee division percentages. The only deviation is that, for flat fee matters, the client's signature of approval is not required. Though, a signature of approval is always recommended.

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Sharing Fees in California

HOW TO ETHICALLY SHARE FEES

A referral fee, not just a fee division, is permitted as long as the client is informed in writing of the fee division and percentages, of all lawyers/firms involved, and that the overall fees are not increased as a result of the division.

California Rule

The requirements of the division of fees in California may be found in the California Rules of Professional Conduct Rule 1.5.1(a):

(a) *Lawyers who are not in the same law firm shall not divide a fee for legal services unless:*
(1) *the lawyers enter into a written agreement to divide the fee;*
(2) *the client has consented in writing, either at the time the lawyers enter into the agreement to divide the fee or as soon thereafter as reasonably practicable, after a full written disclosure to the client of: (i) the fact that a division of fees will be made; (ii) the identity of the lawyers or law firms that are parties to the division; and (iii) the terms of the division; and*
(3) *the total fee charged by all lawyers is not increased solely by reason of the agreement to divide fees.*

Conclusion

California is a "pure referral fee" state, in that no proportionality or joint assumption of responsibility is required, although the disclosure and consent in writing requirements still exist. This system is designed to encourage referrals, and the relaxed rules around fee divisions are an economic incentive.

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Sharing Fees in Colorado

HOW TO ETHICALLY SHARE FEES

A fee division is permitted in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Colorado Rule

Colorado Rules of Professional Conduct Rule 1.5(d) and (e) makes it clear:

(d) *Other than in connection with the sale of a law practice pursuant to Rule 1.17, a division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the basis upon which the division of fees shall be made, and the client's agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*
(e) *Referral fees are prohibited.*

Conclusion

Colorado follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee divisions and joint responsibility must be approved in writing. The only deviation is that Colorado explicitly prohibits pure referral fees.

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Sharing Fees in Connecticut

HOW TO ETHICALLY SHARE FEES

A referral fee, not just a fee division, is permitted as long as the client is informed of the fee division and percentages in writing, of all lawyers/firms involved, and the client does not object.

Connecticut Rule

Connecticut Rules of Professional Conduct Rule 1.5(e) makes it clear:
(e) *A division of fee between lawyers who are not in thesame firm may be made only if:*

(1) *The client is advised in writing of the compensation sharing agreement and of the participation of all the lawyers involved, and does not object; and*
(2) *The total fee is reasonable.*

Conclusion

Connecticut is one of the few states that allows pure referral fees without a proportionality requirement or joint assumption of responsibility. The client must be informed in writing of the fee division, parties, and percentages, the division is permitted so long as the client does not object. While not required to approve in writing, a client's signature is recommended.

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Sharing Fees in Delaware

HOW TO ETHICALLY SHARE FEES

A referral fee, not just a fee division, is permitted as long as the client is informed of the fee division and percentages in writing, of all lawyers/firms involved, and the client does not object.

Delaware Rule

Connecticut Rules of Professional Conduct Rule 1.5(e) makes it clear:
(e) *A division of fee between lawyers who are not in the same firm may be made only if:*

(1) *The client is advised in writing of the compensation sharing agreement and of the participation of all the lawyers involved, and does not object; and*
(2) *The total fee is reasonable.*

Conclusion

Delaware is one of the few states that allows pure referral fees without a proportionality requirement or joint assumption of responsibility. The client must be informed in writing of the fee division, parties, and percentages, the division is permitted so long as the client does not object. While not required to approve in writing, a client's signature is recommended.

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Sharing Fees in Florida

HOW TO ETHICALLY SHARE FEES

Florida permits fee divisions in proportion to services performed, or, if all parties assume joint responsibility and are available for consultation. In contingency cases, secondary firms are limited to a maximum of 25 percent attorneys' fees, unless all parties petition the court and certain criteria are met.

Florida Rule

/n the Florida Rules of Professional Conduct, rule 1.5(g) states,

(g) *Division of Fees Between Lawyers in Different Firms. Subject to the provisions of subdivision (f)(4)(D), a division of fee between lawyers who are not in the same firm may be made only if the total fee is reasonable and:*
(1) *the division is in proportion to the services performed by each lawyer; or*
(2) *by written agreement with the client:*

- ***(A)*** *each lawyer assumes joint legal responsibility for the representation and agrees to be available for consultation with the client; and*
- ***(B)*** *the agreement fully discloses that a division of fees will be made and the basis upon which the division of fees will be made.*

Opinion 90-8

(2) *To the lawyer assuming secondary responsibility for the legal services on behalf of the client, a maximum of 25% of the total fee. Any fee in excess of 25% shall be presumed to be clearly excessive.*

Conclusion

Florida has perhaps the most unique fee division rules, in that the amounts are limited for contingency matters. Florida also deviates from the ABA Model Rules for fee division in that all parties must be available for client consultation.

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Sharing Fees in Georgia

HOW TO ETHICALLY SHARE FEES

Georgia allows fee divisions in proportion to the work performed, or when all parties assume joint responsibility and the client is informed of the division percentages and does not object.

Georgia Rule

Rule 1.5(e) of the Georgia Rules of Professional Conduct provides:
(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*

(1) *the division is in proportion to the services performed by each lawyer or, by written agreement with the client, each lawyer assumes joint responsibility for the representation;*
(2) *the client is advised of the share that each lawyer is to receive and does not object to the participation of all the lawyers involved; and*
(3) *the total fee is reasonable.*

Conclusion

Georgia's requirements to permit fee divisions are similar to the ABA Model Rules in that proportionality or joint assumption of responsibility is required. The client must be informed of the fee division percentages allotted. However, Georgia does not require disclosure in writing or signed by the client. Only that the client does not object. Still, client approval in writing is always recommended.

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Sharing Fees in Hawai'i

HOW TO ETHICALLY SHARE FEES

Hawai'i permit fee divisions when the amounts are proportional to the work performed and all parties assume joint responsibility. The client must be informed of the division and does not object.

Hawai'i Rule

Hawai'i Rules of Professional Conduct Rule 1.5(f) makes clear the requirement for referral fees:

(f) *A division of fees between lawyers who are not in the same firm may be made only if:*

(1) *the division is in proportion to the services performed by each lawyer and, by written agreement with the client, each lawyer assumes joint responsibility for the representation;*

(2) *the client is advised of and does not object to the participation of all the lawyers involved; and,*

(3) *the total fee is reasonable.*

Conclusion

Hawai'i stands out in that joint responsibility and proportional fee divisions are both required. There is only a requirement of reasonableness for the proportional fee division, though some guidance is given with regard to the amount and nature of work performed. The rules largely leave it to the attorneys to determine what a reasonable, proportional fee division is. The client must be informed of the fee division, but the percentages are not required to be disclosed, nor must the client approve in writing. However, client approval in writing is always recommended.

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Sharing Fees in Idaho

HOW TO ETHICALLY SHARE FEES

Idaho allows fee divisions in proportion to the work performed, or when all parties assume joint responsibility and the client is informed of the division percentages and does not object.

Idaho Rule

Idaho Rules of Professional Conduct Rule 1.5(e) makes clear the requirement for the division of fees:

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(4) *the total fee is reasonable.*

Conclusion

Idaho's requirements to permit fee divisions are similar to the ABA Model Rules in that proportionality or joint assumption of responsibility is required. The client must be informed of the fee division percentages allotted. However, Georgia does not require disclosure in writing or signed by the client. Only that the client does not object. Still, client approval in writing is always recommended.

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Sharing Fees in Illinois

HOW TO ETHICALLY SHARE FEES

Illinois permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Illinois Rule

The Rules of Professional Conduct of Illinois breaks down the requirements for the division of fees in Rule 1.5(f):

(f) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer, or if the primary service performed by one lawyer is the referral of the client to another lawyer and each lawyer assumes joint financial responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

Illinois follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Indiana

HOW TO ETHICALLY SHARE FEES

Indiana permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Indiana Rule

Rule 1.5(e) in the Indiana Rules of Professional Conduct lists the requirements for when a fee may be divided:

(e) *A division of a fee between lawyers who are not in the same* firm may *be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

Indiana follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Iowa

HOW TO ETHICALLY SHARE FEES

Iowa permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Iowa Rule

The requirements for the division of fees may be found in the Iowa Rules of Professional Conduct Rule 32: 1.5(e):

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

Iowa follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Kansas

HOW TO ETHICALLY SHARE FEES

Kansas permits a pure referral fee. Disclosure to the client is not required.

Kansas Rule

Kansas Rules of Professional Conduct Rule 1.5(g) provides:
(g) *A division of fee, which may include a portion designated for referral of a matter, between or among lawyers who are not in the same firm may be made if the total fee is reasonable and the client is advised of and does not object to the division.*

Conclusion

Kansas is unique in that a pure referral fee is permitted. No proportionality or joint assumption of responsibility is required, nor must the client even be informed. However, the client's approval in writing is always recommended.

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Sharing Fees in Kentucky

HOW TO ETHICALLY SHARE FEES

Kentucky permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Kentucky Rule

The requirements of the division of fees in Kentucky may be found in the Kentucky Rules of Professional Conduct Rule 1.5(e):

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer, or, each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

Kentucky follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Louisiana

HOW TO ETHICALLY SHARE FEES

Louisiana permits fee divisions when the client approves of the percentages in writing. Louisiana also requires that all parties provide meaningful legal services.

Louisiana Rule

The rules for the division of fees for Louisiana may be found in the Louisiana Rules of Professional Conduct Rule 1.5(e):

(e) *A division of fees between lawyers who are not in the same firm may be made only if:*

(1) *the client agrees in writing to the representation by all of the lawyers involved, and is advised in writing as to the share of the fee that each lawyer will receive;*

(2) *the total fee is reasonable; and,*

(3) *each lawyer renders meaningful legal services for the client in the matter.*

Conclusion

Louisiana is unique in that all parties must provide "meaningful legal services." However, that term is not defined. All indications are that this departure from the ABA Model Rules is intended to prevent pure lead generation activities without any client interactions, such as simply providing an online form for the client to fill out. Client relations, case assessments, and case administration is generally accepted as "meaningful legal services." The client is still required to approve all division percentages in writing.

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Sharing Fees in Maine

HOW TO ETHICALLY SHARE FEES

Maine permits referral fees provided that the client approves of the terms of the fees in writing.

Maine Rule

Maine makes clear the guidelines for the sharing of fees in the Maine Rules of Professional Conduct Rule 1.5(e):

(e) *A lawyer shall not divide a fee for legal services with another lawyer who is not a partner in or associate of the lawyer's law firm or office unless:*

(1) *after full disclosure, the client consents to the employment of the other lawyer and to the terms for the division of the fees, confirmed in writing; and*

(2) *the total fee of the lawyers does not exceed reasonable compensation for all legal services they rendered to the client.*

Conclusion

Maine is a pure referral fee state. As long as the client approves the terms of the fees in writing, there are no requirements for proportionality or joint assumption of responsibility.

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Sharing Fees in Maryland

HOW TO ETHICALLY SHARE FEES

Maryland permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Maryland Rule

The requirements for the division of fees in Maryland may be found in the Maryland Rules of Professional Conduct Rule 1.5(e):

(e) *A division of a fee between attorneys who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each attorney or each attorney assumes joint responsibility for the representation;*
(2) *the client agrees to the joint representation and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

Maryland follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Massachusetts

HOW TO ETHICALLY SHARE FEES

Massachusetts permits referral fees provided that the client approves of the terms of the fees in writing.

Massachusetts Rule

The Massachusetts Rules of Professional Conduct Rule 1.5(e) discusses fees, and states:

(e) *A division of a fee (including a referral fee) between lawyers who are not in the same firm may be made only if the client is notified before or at the time the client enters into a fee agreement for the matter that a division of fees will be made and consents to the joint participation in writing and the total fee is reasonable. This limitation does not prohibit payment to a former partner or associate pursuant to a separation or retirement agreement.*

Conclusion

Massachusetts is a pure referral fee state. As long as the client approves the terms of the fees in writing, there are no requirements for proportionality or joint assumption of responsibility.

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Sharing Fees in Michigan

HOW TO ETHICALLY SHARE FEES

Michigan permits referral fees provided that the client approves of the terms of the fees in writing.

Michigan Rule

Rule 1.5(e) of the Michigan Rules of Professional Conduct provides:

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*

(1) *the client is advised of and does not object to the participation of all the lawyers involved; and the total fee is reasonable.*

Conclusion

Michigan is a pure referral fee state. As long as the client approves the terms of the fees in writing, there are no requirements for proportionality or joint assumption of responsibility.

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Sharing Fees in Minnesota

HOW TO ETHICALLY SHARE FEES

Minnesota permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Minnesota Rule

Minnesota makes clear the guidelines for the sharing of fees in the Minnesota Rules of Professional Conduct Rule 1.5(e):

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

Minnestoa follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Mississippi

HOW TO ETHICALLY SHARE FEES

Mississippi permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Mississippi Rule

Any division of fees for attorneys in Mississippi must follow the requirements laid out in the Mississippi Rules of Professional Conduct Rule 1.5(e), which states:

(e) *A division of fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or, by written agreement with the client, each lawyer assumes joint responsibility for the representation;*
(2) *the client is advised of and does not object to the participation of all the lawyers involved; and*
(3) *the total fee is reasonable.*

Conclusion

Mississippi follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Missouri

HOW TO ETHICALLY SHARE FEES

Missouri permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Missouri Rule

In Missouri, the terms for splitting fees amongst attorneys are governed by the Missouri Rules of Professional Conduct Rule 4-1.5(e), which states:

(e) *A division of fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the association and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

Missouri follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Montana

HOW TO ETHICALLY SHARE FEES

Montana permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Montana Rule

The rules for the division of fees for Montana may be found in the Montana Rules of Professional Conduct Rule 1.5(e):

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

Montana follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Nebraska

HOW TO ETHICALLY SHARE FEES

Nebraska permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Nebraska Rule

Nebraska lays out its rules for the division of fees in the Nebraska Rules of Professional Conduct § 3-501.5(e), which provides:

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and*
(3) *the total fee is reasonable.*

Conclusion

Nebraska permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

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Sharing Fees in Nevada

HOW TO ETHICALLY SHARE FEES

Nevada permits referral fees so long as the client approves of the fee percentages in writing.

Nevada Rule

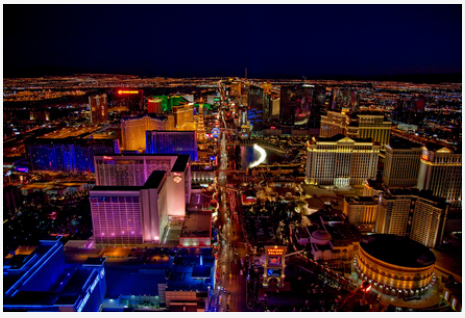
The requirements for any division of fees in Nevada may found in the Nevada Rules of Professional Conduct Rule 1.5(e), which state:

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*

(1) *Reserved;*
(2) *The client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *The total fee is reasonable.*

Conclusion

Nevada previously conformed the ABA Model Rules, but has recently removed the proportionality and joint responsibility requirements, though client consent in writing of the fee percentages is still required.



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Sharing Fees in New Hampshire

HOW TO ETHICALLY SHARE FEES

New Hampshire permits referral fees provided that the client approves in writing.

New Hampshire Rule

In New Hampshire, the terms for splitting fees amongst attorneys are governed by the New Hampshire Rules of Professional Conduct Rule 1.5(f), which states:

(f) *A division of fee between lawyers who are not in the same firm may be made only if:*

(1) *the division is made either:*

- ***(a)*** *in reasonable proportion to the services performed or responsibility or risks assumed by each, or*
- ***(b)*** *based on an agreement with the referring lawyer;*

(2) *in either case above, the client agrees in a writing signed by the client to the division of fees;*

(3) *in either case, the total fee charged by all lawyers is not increased by the division of fees and is reasonable.*

Conclusion

New Hampshire permits referral fees so long as the client approves of the fee percentages in writing. The rule states that the division must be proportional to the work performed or joint or responsibility, or pursuant to an agreement between the lawyers. The mix of provisions simply provides guidance for attorneys when deciding how to divide fees.

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Sharing Fees in New Jersey

HOW TO ETHICALLY SHARE FEES

New Jersey permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

New Jersey Rule

The New Jersey Rules of Professional Conduct Rule 1.5(e) give the requirements for the division of fees, which are as follows:

(e) *Except as otherwise provided by the Court Rules, a division of fees between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer, or, by written agreement with the client, each lawyer assumes joint responsibility for the representation; and*
(2) *the client is notified of the fee division; and*
(3) *the client consents to the participation of all the lawyers involved; and*
(4) *the total fee is reasonable.*

Conclusion

New Jersey follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in New Mexico

HOW TO ETHICALLY SHARE FEES

New Mexico permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

New Mexico Rule

The New Mexico Rules of Professional Conduct concerning referral fees are stated in Rule 16-105(f):

(f) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

New Mexico follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in New York

HOW TO ETHICALLY SHARE FEES

New York permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

New York Rule

The New York Rules of Professional Conduct Rule 1.5(g) give the requirements for the division of fees, which are as follows:

(g) *A lawyer shall not divide a fee for legal services with another lawyer who is not associated in the same law firm unless:*
(1) *the division is in proportion to the services performed by each lawyer or, by a writing given to the client, each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to employment of the other lawyer after a full disclosure that a division of fees will be made, including the share each lawyer will receive, and the client's agreement is confirmed in writing; and,*
(3) *the total fee is not excessive.*

Conclusion

New York permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

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Sharing Fees in North Carolina

HOW TO ETHICALLY SHARE FEES

North Carolina permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

North Carolina Rule

The rules for the division of fees for North Carolina may be found in the North Carolina Rules of Professional Conduct Rule 1.5(e):

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

North Carolina follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in North Dakota

HOW TO ETHICALLY SHARE FEES

North Dakota permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

North Dakota Rule

The North Dakota Rules of Professional Conduct Rule 1.5(e) give the requirements for the division of fees, which are as follows:

(e) *A division of fee between lawyers who are not in the same firm may be made only if:*
(1) *the division of fee is in proportion to the services performed by each lawyer or each lawyer, by written agreement, assumes joint responsibility for the representation;*
(2) *after consultation, the client consents in writing to the participation of all the lawyers involved; and,*
(3) *the total fee is reasonable.*

Conclusion

North Dakota follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Ohio

HOW TO ETHICALLY SHARE FEES

Ohio permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Ohio Rule

The requirements for any division of fees in Ohio may found in the Ohio Rules of Professional Conduct Rule 1.5(e), which state:

(e) *Lawyers who are not in the same firm may divide fees only if all of the following apply:*

(1) *the division of fees is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation and agrees to be available for consultation with the client;*

(2) *the client has given written consent after full disclosure of the identity of each lawyer, that the fees will be divided, and that the division of fees will be in proportion to the services to be performed by each lawyer or that each lawyer will assume joint responsibility for the representation;*

(3) *except where court approval of the fee division is obtained, the written closing statement in a case involving a contingent fee shall be signed by the client and each lawyer and shall comply with the terms of division (c)(2) of this rule;*

(4) *the total fee is reasonable.*

Conclusion

Ohio follows the spirit of the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing. The rules include additional requirements to disclose the identities of all lawyers receiving a division of the fees.

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Sharing Fees in Oklahoma

HOW TO ETHICALLY SHARE FEES

Oklahoma permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Oklahoma Rule

Oklahoma lays out its rules for the division of fees in the Oklahoma Rules of Professional Conduct Rule 1.5(e):

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement and the agreement is confirmed in writing;*
and,
(3) *the total fee is reasonable.*

Conclusion

Oklahoma follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Oregon

HOW TO ETHICALLY SHARE FEES

Oregon permits referral fees provided that the client approves of the division in writing.

Oregon Rule

In Oregon, the terms for splitting fees amongst attorneys are governed by the Oregon Rules of Professional Conduct Rule 1.5(d), which states: ***(d)*** *A division of a fee between lawyers who are not in the same firm may be made only if:*

(1) *the client gives informed consent to the fact that there will be a division of fees, and;*
(2) *the total fee of the lawyers for all legal services they rendered the client is not clearly excessive.*

Conclusion

Oregon is a pure referral fee state. Neither proportionality nor joint assumption of responsibility is required, nor is the client required to be informed of the specific percentages, though the client must approve of the referral fee in writing.

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Sharing Fees in Pennsylvania

HOW TO ETHICALLY SHARE FEES

Pennsylvania permits referral fees so long as the client does not object.

Pennsylvania Rule

The rules for the division of fees for Pennsylvania may be found in the Pennsylvania Rules of Professional Conduct Rule 1.5(e):

(e) *A lawyer shall not divide a fee for legal services with another lawyer who is not in the same firm unless:*

- ***(1)*** *the client is advised of and does not object to the participation of all the lawyers involved; and,*
- ***(2)*** *the total fee of the lawyers is not illegal or clearly excessive for all legal services they rendered the client.*

Conclusion

Pennsylvania is a pure referral fee state. Neither proportionality nor joint assumption of responsibility is required. There is no requirement to inform the client of the fee percentages, nor is the client required to approve in writing, only that the client is informed of a referral fee and does not object. Though client approval in writing is always recommended.

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Sharing Fees in Rhode Island

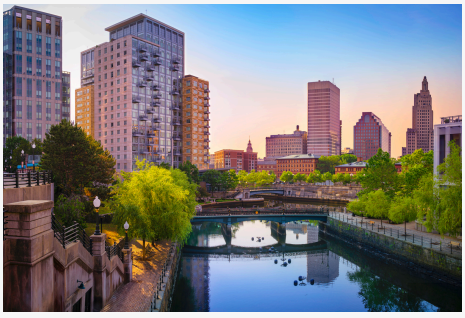
HOW TO ETHICALLY SHARE FEES

Rhode Island permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Rhode Island Rule

Rhode Island lays out its rules for the division of fees in the Rhode Island Rules of Professional Conduct Rule 1.5(e):

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and*
(3) *the total fee is reasonable.*



Conclusion

Rhode Island follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in South Carolina

HOW TO ETHICALLY SHARE FEES

South Carolina permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

South Carolina Rule

In South Carolina, the terms for splitting fees amongst attorneys are governed by the South Carolina Rules of Professional Conduct Rule 1.5(e), which states:

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

South Carolina follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in South Dakota

HOW TO ETHICALLY SHARE FEES

South Dakota permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

South Dakota Rule

South Dakota lays out its rules for the division of fees in the South Dakota Rules of Professional Conduct Rule 1.5(e):

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

South Dakota follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Tennessee

HOW TO ETHICALLY SHARE FEES

Tennessee permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Tennessee Rule

Any division of fees for attorneys in Tennessee must follow the requirements laid out in the Tennessee Rules of Professional Conduct Rule 1.5(e), which states:

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

Tennessee follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Texas

HOW TO ETHICALLY SHARE FEES

Texas permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, all identities disclosed, and whether the fee division is based on joint assumption of responsibility or proportionality, and the client must approve in writing.

Texas Rule

The requirements for any division of fees in Texas may found in the Disciplinary Rules of Professional Conduct Rule 1.04(f), which state

(f) *A division or arrangement for division of a fee between lawyers who are not in the same firm may be made only if:*

(1) *the division is:*

- ***(i)*** *in proportion to the professional services performed by each lawyer; or*
- ***(ii)*** *made between lawyers who assume joint responsibility for the representation; and*

(2) *the client consents in writing to the terms of the arrangement prior to the time of the association or referral proposed, including:*

- ***(i)*** *the identity of all lawyers or law firms who will participate in the fee-sharing agreement, and,*
- ***(ii)*** *whether fees will be divided based on the proportion of services performed or by lawyers agreeing to assume joint responsibility*
- for the representation, and
- **(iii)** the share of the fee that each lawyer or law firm will receive or, if the division is based on the proportion of services performed, the basis on which the division will be made; and

(3) the aggregate fee does not violate paragraph (a).

Conclusion

Texas now follows the ABA Model Rules of either proportionality of fee division, or joint responsibility, though with additional disclosure requirements. Fee division percentages and joint responsibility must be approved by the client in writing, as well as the basis for the division of fees and the identities of all lawyers in representation.

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Sharing Fees in Utah

HOW TO ETHICALLY SHARE FEES

Utah does not currently have a rule regulating the sharing of fees.

Utah Rule

(No rule currently)

Conclusion

Utah is contemplating a revision of permissible referral fees to non-attorneys. Utah previously followed the ABA Model Rules, but repealed that rule in anticipation of a replacement. However, that replacement has yet to be approved. In the absence of a rule, referral fees are permitted, though fee sharing with non-attorneys is not yet explicitly permitted. Regardless, client approval in writing of a referral fee or division of fees is always recommended.

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Sharing Fees in Vermont

HOW TO ETHICALLY SHARE FEES

Vermont permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Vermont Rule

Vermont lays out its rules for the division of fees in the Vermont Rules of Professional Conduct Rule 1.5(e):

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;*
(2) *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and,*
(3) *the total fee is reasonable.*

Conclusion

Vermont follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing.

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Sharing Fees in Virginia

HOW TO ETHICALLY SHARE FEES

Virginia permits referral fees provided that the division is disclosed to the client and approved in writing.

Virginia Rule

The guidelines for the division of fees in Virginia may be found in the Virginia Rules of Professional Conduct Rule 1.5(e)

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*

(1) *the client is advised of and consents to the participation of all the lawyers involved;*
(2) *the terms of the division of the fee are disclosed to the client and the client consents thereto;*
(3) *the total fee is reasonable; and,*
(4) *the division of fees and the client's consent is obtained in advance of the rendering of legal services, preferably in writing.*

Conclusion

Virginia is one of the few states that allows pure referral fees without a proportionality requirement or joint assumption of responsibility. The client must be informed of the fee division, parties, and percentages, and the client approves, "preferably in writing."

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Sharing Fees in Washington, DC

HOW TO ETHICALLY SHARE FEES

Washington DC permits fee divisions when the client is informed of the division and the parties involved and approves in writing.

DC Rule

The Washington, DC Rules of Professional Conduct Rule 1.5(e) give the requirements for the division of fees, which are as follows:

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*

(1) *The division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation.*

(2) *The client is advised, in writing, of the identity of the lawyers who will participate in the representation, of the contemplated division of responsibility, and of the effect of the association of lawyers outside the firm on the fee to be charged;*

(3) *The client gives informed consent to the arrangement; and*

(4) *The total fee is reasonable.*

Conclusion

Washington DC largely follows the ABA Model Rules of proportionality or joint assumption of responsibility, though with greater disclosure requirements. However, the fee percentages need not be disclosed to the client, though approval of the division must be obtained in writing. Additionally, and aside from Arizona, uniquely, Washington DC permits non-attorney equity partners in law firms.

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Sharing Fees in Washington

HOW TO ETHICALLY SHARE FEES

Washington permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Washington Rule

Any division of fees for attorneys in Washington must follow the requirements laid out in the Washington Rules of Professional Conduct Rule 1.5(e), which states:

(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*

(1)

- ***(i)*** *the division is in proportion to the services provided by each lawyer or each lawyer assumes joint responsibility for the representation;*
- ***(ii)*** *the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and*
- ***(iii)*** *the total fee is reasonable; or*

(2) *the division is between the lawyer and a duly authorized lawyer referral service of either the Washington State Bar Association or of one of the county bar associations of this state.*

Conclusion

Washington follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing. Washington also explicitly permits referral fees to state and local bar association referral programs.

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Sharing Fees in West Virginia

HOW TO ETHICALLY SHARE FEES

West Virginia permits referral fees without any disclosure requirements to the client.

West Virginia Rule

The West Virginia Rules of Professional Conduct concerning referral fees are stated in Conduct Rule 1.5:
When a lawyer refers a case to another lawyer or law firm, a division of fees may be made if the client agrees that the case may be referred to the other lawyer or law firm.

Conclusion

Uniquely, even for pure referral fee states, West Virginia places almost no restrictions on referral fees, aside from a prohibition on fees to non-attorneys. There are no requirements for proportionality, joint assumption of responsibility, nor even disclosure of a fee to the client. Though disclosure to the client and approval in writing is always recommended

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Sharing Fees in Wisconsin

HOW TO ETHICALLY SHARE FEES

Wisconsin permits fee divisions in proportion to work performed, or if attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Wisconsin Rule

Wisconsin lays out its rules for the division of fees in the Wisconsin Rules of Professional Conduct Rule 1.5(e):

(e) *A division of a fee between lawyers who are not in the same firm may be made only if the total fee is reasonable and:*

(1) *the division is based on the services performed by each lawyer, and the client is advised of and does not object to the participation of all the lawyers involved and is informed if the fee will increase as a result of their involvement; or*

(2) *the lawyers formerly practiced together and the payment to one lawyer is pursuant to a separation or retirement agreement between them; or*

(3) *pursuant to the referral of a matter between the lawyers, each lawyer assumes the same ethical responsibility for the representation as if the lawyers were partners in the same firm, the client is informed of the terms of the referral arrangement, including the share each lawyer will receive and whether the overall fee will increase, and the client consents in a writing signed by the client.*

Conclusion

Wisconsin follows the ABA Model Rules of either proportionality of fee division, or joint responsibility. All fee division percentages and joint responsibility must be approved by the client in writing. However, the rules provide additional disclosure requirements regarding whether there will be an increase in fees due to the existence of the division.

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Sharing Fees in Wyoming

HOW TO ETHICALLY SHARE FEES

Wyoming permits fee divisions in proportion to work performed and the attorneys assume joint responsibility. The fee division percentages must be outlined, and the client must approve in writing.

Wyoming Rule

Any division of fees for attorneys in Wyoming must follow the requirements laid out in the Wyoming Rules of Professional Conduct Rule 1.5(e), which states:
(e) *A division of a fee between lawyers who are not in the same firm may be made only if:*
(1) *the division is in proportion to the services performed by each lawyer and, each lawyer assumes joint responsibility for the representation;*
(2) *the client is informed of the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing;*
(3) *the total fee is reasonable.*

Conclusion

Wyoming somewhat follows the ABA Model Rules but requires both a proportionality of fee division and joint responsibility, instead of one or the other. All fee division percentages and joint responsibility must be approved by the client in writing.

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