

**New York State Bar Association
Committee on Professional Ethics**

Opinion 1299 (08/31/2026)

Topic: Reasonableness of a fee for time spent explaining lawyer's invoices.

Digest: If a lawyer's bill is sufficiently detailed, a lawyer may charge the client for time spent explaining the lawyer's bill, after putting the client on notice that the time will be billed, insofar as the explanation is an aspect of the lawyer's counseling function and not overhead related to a billing dispute.

Rules: 1.4(a), 1.5(a) & (b)

FACTS:

1. A lawyer's client agreed to pay an hourly fee for legal services. At each billing cycle, however, the inquirer's client questions the lawyer about the bill, often asking the same questions that were answered the previous month, notwithstanding that the client appeared to understand the answers at the time.

QUESTION:

2. May a lawyer charge a client for time spent explaining the lawyer's bill?

OPINION:

3. Rule 1.5 addresses legal fees and expenses. Rule 1.5(a) states: "A lawyer shall not make an agreement for, charge, or collect an excessive or illegal fee or expense. A fee is excessive when, after a review of the facts, a reasonable lawyer would be left with a definite and firm conviction that the fee is excessive." Rule 1.5(a)(1)-(8) provides a list of factors to consider when evaluating whether a fee is excessive. Comment [1] to Rule 1.5 observes that the factors specified in paragraphs (a)(1) through (a)(8) are not exclusive and that each factor will not always be relevant.

4. Rule 1.5(b) states:

A lawyer shall communicate to a client the scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible. This information shall be communicated to the client before or within a reasonable time after commencement of the representation and shall be in writing where required by statute or court rule. This provision shall not apply when the lawyer will charge a regularly represented client on the same basis or rate and perform services that are of the same general kind as previously rendered to and paid for by the client. Any changes in

the scope of the representation or the basis or rate of the fee or expenses shall also be communicated to the client.

5. Some activities performed by an attorney are clearly chargeable to the client as professional service fees under a standard engagement letter. For example, if a client engages an attorney to represent her in a litigation, the attorney may bill the client for time spent appearing in court, conducting legal research, and preparing pleadings.

6. Whether the attorney may bill the client for other activities is sometimes less clear, and may depend upon context and reasonable expectations, which in turn may depend upon what is disclosed to the client and agreed to in advance. For example, ABA 93-379 states, in pertinent part:

A lawyer may not charge a client for overhead expenses generally associated with properly maintaining, staffing and equipping an office; however, the lawyer may recoup expenses reasonably incurred in connection with the client's matter for services performed in-house, such as photocopying, long distance telephone calls, computer research, special deliveries, secretarial overtime, and other similar services, so long as the charge reasonably reflects the lawyer's actual cost for the services rendered.

7. The point at which "overhead" becomes "professional services" may vary by the matter and there is no bright line rule for distinguishing one from the other. As a general matter, however, when a client asks a lawyer to engage in activities related to the representation beyond activities or expenses that are generally treated as overhead, the lawyer is entitled to charge for those services as professional services.

8. Assuming the lawyer's bill to the client provides sufficient information about the lawyer's compensation for legal services in accordance with the engagement agreement or other prior understandings with the client, and assuming that the bill is not arguably erroneous, the lawyer's time spent explaining the bill will not be overhead in the way that standard time entries and bill preparation might be considered overhead. Rather, the explanation will be an aspect of the lawyer's counseling function, consistent with Rule 1.4(a)(4), which requires a lawyer to "promptly comply with a client's reasonable requests for information." For example, depending on the client's questions, an explanation of the bill may include a discussion of such subjects as the services performed by the lawyer, how and by whom they were performed, and why and in what manner they were performed.

9. Where, as in the inquirer's case, the client repeatedly asks the same questions about the bill that the lawyer has sufficiently answered and the client has understood in the past, the requests for information may no longer be reasonable, but the lawyer's time in complying with the client's requests for information will nevertheless constitute an aspect of the lawyer's counseling function for which the lawyer may elect to bill. Because the client may not regard the lawyer's explanation of the bill as an aspect of the representation, however, the lawyer must give the client advance notice that the additional service will be billable. If the client then persists in questioning the lawyer about the bill after giving the client advance notice, then the lawyer may bill for this service. As a corollary, if the client refuses to agree in advance to compensate the lawyer for the explanatory additional service, then the lawyer may decline to discuss the invoices in detail. *Cf.* N.Y. State 783 (2005) ("If a client deliberately disregards an agreement to pay legal fees and expenses, and the letter of engagement or retainer agreement is silent as to interest charges on the delinquency, a

lawyer may condition continued representation on the client's agreement to prospectively pay interest on any past due balance for services rendered or to be rendered in the future.").

10. In contrast, time spent addressing a client's good faith dispute over the bill, regarding alleged overcharging, erroneous billing, unnecessary work, overstaffing, or the like, does not constitute an aspect of the lawyer's counseling function (*i.e.*, does not constitute a legal service). Rather, addressing a client's good faith dispute over a bill is an aspect of the lawyer's business relationship with the client. From the lawyer's perspective, time spent addressing a genuine billing dispute furthers the lawyer's business interests and would be an aspect of the lawyer's overhead, like the time spent negotiating the terms of the representation prior to establishing the lawyer-client relationship. Such time is not billable.

CONCLUSION:

11. If a lawyer's bill is sufficiently detailed, a lawyer may charge the client for time spent explaining the lawyer's bill, after putting the client on notice that the time will be billed, insofar as the explanation is an aspect of the lawyer's counseling function and not overhead related to a billing dispute.

(10-26)