Double Billing in Law: How to Avoid the Unethical Practice

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Billable hours are key to profitability for lawyers, yet billable work makes up a fraction of the work day. According to the latest*Legal Trends Report*, lawyers spend just 2.9 hours in an eight-hour workday on billable tasks. In order to meet the high-pressure demand for billable work, efficiency is key. But, when it comes to legal invoices, there's a difference between maximizing productivity and crossing an ethical line with double billing.

Why, and how, are legal clients getting double billed?

In the following post, we'll outline the basics of double billing in law—and stress why attorneys should be able to recognize and avoid the unethical practice. We'll also look at some common ways that double billing can occur for lawyers, whether intentionally or inadvertently. Finally, we'll touch on strategies lawyers can use to help prevent double billing.

What is double billing?

In law, double billing occurs when an attorney invoices two or more clients at a full rate for work done during the same time period. In this way, double billing means that a lawyer is charging for more hours than they actually worked. It can include invoicing two clients for research that applies to separate cases, administrative errors, and more.

Double billing is inherently an unethical practice, but it can also be difficult to detect and control. It is essential for lawyers to recognize and avoid double billing. You'll to maintain your professional integrity while meeting your ethical responsibilities to clients.

What are some examples of double billing?

For lawyers, double billing comes down to charging more than one client for work completed at the same time. But there are many ways that it can occur. Because there is some case-by-case variability with attorney double billing, some cases are challenging to pinpoint.

To help you, here are some hypothetical examples of common types of attorney double billing to steer clear of:

Charging for work while traveling

One of the most common scenarios where attorneys may double bill clients involves business travel. If an attorney is traveling on behalf of work for a client, it's reasonable that they may bill for travel time. But, say an attorney spends some of their time sitting on a plane doing billable legal work for another client. That could be considered double billing.

In this instance, if the lawyer spends two hours on a plane for client A while simultaneously doing two hours of billable work for client B, they cannot bill both client A and client B for that same two hours each.

In a situation like this, there are a few potential solutions. The key point to remember is that the lawyer cannot charge for more hours than were actually worked.

Of course, the obvious answer would be for the lawyer not to do work while traveling for client A. Then they only charge client A for the travel hours.

However, they could also use the time productively while offering a cost-savings for both clients. Instead of double billing, the lawyer could potentially bill each client for one hour, for example. The lawyer gets to make the most of their travel time, and both clients win by saving on their legal bills.

Charging multiple clients for the same work

What about if a lawyer has two clients with similar legal issues, and they legitimately need to spend time researching the same topic for both? While it wouldn't make sense for the attorney to do the identical research twice, they can't charge for it twice either.

Let's say an attorney spends two billable hours researching a topic that applies to both client C and client D. In this case, even though both clients benefit from two hours of the attorney's research, the attorney should not bill both clients for the full two hours each, as this would be double billing.

Instead, the lawyer could bill one client only, or they could bill each client for one hour. Again, this would allow the lawyer to be productive and pass cost savings on to their clients, without double billing.

Inaccurate billing due to administrative errors

There are also instances when clients may be over-billed due to administrative and invoicing errors.

Here are a couple key examples:

- Duplicate invoice submission. When invoices are processed manually, there is an increased risk of errors like an invoice being accidentally submitted (and paid) more than once.
- Time tracking errors or time padding. Whether it's an innocent mistake due to manual time tracking or an issue of rounding up and time "padding" billable hours, inaccurate time tracking leads to clients paying for more than they actually received. (Hint: Using a timekeeper like the one in Clio Manage can help avoid such errors).

Putting the right tech and systems in place can help eliminate unnecessary billing errors. Read more about law firm billing best practices here.

Why attorney double billing is unethical

While double billing may be challenging to catch—due to the confidentiality of legal billing records and the fact that clients don't have insight into what their lawyer's other clients are being charged—it is unethical. Billing multiple clients for the same work is deceitful and a distortion of an attorney's time and services.

Attorneys are required to comply with the rules of professional conduct for lawyers. While it's important for lawyers to know and abide by the exact rules that apply in their specific situation and jurisdiction, double billing is undeniably an unethical practice.

In the United States, the American Bar Association (ABA) Model Rules of Professional Conduct outline model rules for legal ethics, many of which have been adopted by individual states. According to Model Rule 1.5 related to fees, lawyers have an ethical responsibility to not charge clients for fees or expenses that are "unreasonable."

Formal Opinion 93-379 from the ABA's Standing Committee on Ethics and Professional Responsibility offers further guidance, noting that:

> ""[in] matters where the client has agreed to have the fee determined with reference to the time expended by the lawyer, a lawyer may not bill more time than she actually spends on a matter, except to the extent that she rounds up to minimum time periods (such as one-quarter or one-tenth of an hour).""

Is double billing illegal?

Attorney double billing is unethical, and can have deep repercussions for lawyers. It can lead to disciplinary action for lawyers from their state bar association. In situations where it's found to be fraud, you could face legal penalties.

Double billing and client relationships

It's also important to consider double billing from a client's perspective. Double billing shows a lack of respect for and transparency with clients. Whether or not lawyers are caught, the practice is antithetical to cultivating strong client relationships—which are key to long-term law firm success. On the contrary, instances where you can reduce fees between clients for similar research can make for a better client experience.

How to prevent double billing with Clio

Understanding the common causes and ethical considerations of double billing goes a long way towards helping lawyers steer clear of instances where they may otherwise have double-billed.

For example, a lawyer who understands that charging two clients for work done at the same time is double billing can consciously make the decision to not do this.

But what about cases where double billing is caused by simple human error, such as when an identical invoice is sent to a client twice, or when extra hours are logged on an invoice incorrectly? While these types of scenarios may not be intentional, they still result in double billing, and clients suffer for it.

The good news is that using the right systems can reduce the risk of human error—minimizing the chance of accidental double billing.

Clio Manage's law firm billing software, for example, simplifies lawyer time tracking, leaving less room for error or accidental time padding. Using Clio to create, send, and manage client invoices removes the worry of accidentally sending duplicate invoices. And, by helping to streamline billing and invoicing workflows, Clio frees up more time for lawyers to dedicate to billable hours for their clients.

Learn more about legal billing with Clio (and getting paid faster) here.

Final thoughts on double billing

Put very simply, lawyers should only bill for the actual time that they work. Double billing legal clients is not a shortcut to more billable hours, and it's not ethical.

It may be tempting to bill multiple clients for legal services that they each benefit from. But billing different clients for the same pocket of time goes against the rules of professional conduct that lawyers follow—and it can erode the trust and transparent relationships that today's legal clients want.

Recognizing the basics of double billing can make it easier for lawyers to spot. When presented with a potential double-billing situation, it's best to consider how you will ethically invoice each client. And, to avoid unintentional double billing, the right systems can help.

Clio Manage makes legal time tracking and billing easier, which means lawyers can better prevent accidental double billing or time tracking errors.

Lawyers who find themselves in a situation where they're able to work more efficiently to the benefit of multiple clients can also find new opportunities to deliver value and cost-savings to their clients.

Try Clio for free and see how it can simplify time tracking and billing today.

About Clio

Clio is the global leader in legal AI, powering legal work across the profession, from law firms of every size to corporate legal teams, government agencies, and courts. Its Intelligent Legal Work Platform unites the business and practice of law, connecting the people, information, and processes behind legal work. Clio's AI brings the context together with legal sources drawn from Clio Library, a growing collection of more than one billion legal documents. Over 400,000 legal professionals in more than 130 countries rely on Clio to run their legal world. Learn more at www.clio.com.