



NOVA SCOTIA  
BARRISTERS' SOCIETY

**Nova Scotia Barristers' Society**  
**CODE OF PROFESSIONAL CONDUCT**

---

APPROVED BY COUNCIL SEPTEMBER 23, 2011

EFFECTIVE JANUARY 1, 2012  
AS AMENDED JANUARY 20, 2012; JULY 20, 2012; FEBRUARY 22, 2013

## CODE OF PROFESSIONAL CONDUCT

---

maintained;

- (h) providing quality work and giving reasonable attention to the review of documentation to avoid delay and unnecessary costs to correct errors or omissions;
- (i) maintaining office staff, facilities and equipment adequate to the lawyer's practice;
- (j) informing a client of a proposal of settlement, and explaining the proposal properly;
- (k) providing a client with complete and accurate relevant information about a matter;
- (l) making a prompt and complete report when the work is finished or, if a final report cannot be made, providing an interim report when one might reasonably be expected;
- (m) avoidance of self-induced disability, for example from the use of intoxicants or drugs, that interferes with or prejudices the lawyer's services to the client;
- (n) being civil.

**[6]** A lawyer should meet deadlines, unless the lawyer is able to offer a reasonable explanation and ensure that no prejudice to the client will result. Whether or not a specific deadline applies, a lawyer should be prompt in prosecuting a matter, responding to communications and reporting developments to the client. In the absence of developments, contact with the client should be maintained to the extent the client reasonably expects.

### Limited Scope Retainers

**3.2-1A** Before undertaking a limited scope retainer the lawyer must advise the client about the nature, extent and scope of the services that the lawyer can provide and must confirm in writing to the client as soon as practicable what services will be provided.

#### Commentary

**[1]** Reducing to writing the discussions and agreement with the client about the limited scope retainer assists the lawyer and client in understanding the limitations of the service to be provided and any risks of the retainer.

**[2]** A lawyer who is providing legal services under a limited scope retainer should be careful to avoid acting in a way that suggests that the lawyer is providing full services to the client.

**[3]** Where the limited services being provided include an appearance before a tribunal a lawyer must be careful not to mislead the tribunal as to the scope of the retainer and

## CODE OF PROFESSIONAL CONDUCT

---

should consider whether disclosure of the limited nature of the retainer is required by the rules of practice or the circumstances.

**[4]** A lawyer who is providing legal services under a limited scope retainer should consider how communications from opposing counsel in a matter should be managed (See rule 7.2-6A).

**[5]** This rule does not apply to situations in which a lawyer is providing summary advice, for example over a telephone hotline or as duty counsel, or to initial consultations that may result in the client retaining the lawyer

### Honesty and Candour

**3.2-2** When advising a client, a lawyer must be honest and candid and must inform the client of all information known to the lawyer that may affect the interests of the client in the matter.

#### Commentary

**[1]** A lawyer should disclose to the client all the circumstances of the lawyer's relations to the parties and interest in or connection with the matter, if any that might influence whether the client selects or continues to retain the lawyer.

**[2]** A lawyer's duty to a client who seeks legal advice is to give the client a competent opinion based on a sufficient knowledge of the relevant facts, an adequate consideration of the applicable law and the lawyer's own experience and expertise. The advice must be open and undisguised and must clearly disclose what the lawyer honestly thinks about the merits and probable results.

**[3]** Occasionally, a lawyer must be firm with a client. Firmness, without rudeness, is not a violation of the rule. In communicating with the client, the lawyer may disagree with the client's perspective, or may have concerns about the client's position on a matter, and may give advice that will not please the client. This may legitimately require firm and animated discussion with the client.

### When the Client is an Organization

**3.2-3** Although a lawyer may receive instructions from an officer, employee, agent or representative, when a lawyer is employed or retained by an organization, including a corporation, the lawyer must act for the organization in exercising his or her duties and in providing professional services.

#### Commentary

**[1]** A lawyer acting for an organization should keep in mind that the organization, as

## CODE OF PROFESSIONAL CONDUCT

---

that is abusive, offensive, or otherwise inconsistent with the proper tone of a professional communication from a lawyer.

**7.2-5** A lawyer must answer with reasonable promptness all professional letters and communications from other lawyers that require an answer, and a lawyer must be punctual in fulfilling all commitments.

**7.2-6** Subject to rules 7.2-6A and 7.2-7, if a person is represented by a lawyer in respect of a matter, another lawyer must not, except through or with the consent of the person's lawyer:

- (a) approach, communicate or deal with the person on the matter; or
- (b) attempt to negotiate or compromise the matter directly with the person.

**7.2-6A** Where a person is represented by a lawyer under a limited scope retainer on a matter, another lawyer may, without the consent of the lawyer providing the limited scope legal services, approach, communicate or deal with the person directly on the matter unless the lawyer has been given written notice of the nature of the legal services being provided under the limited scope retainer and the approach, communication or dealing falls within the scope of that retainer.

### Commentary

[1] Where notice as described in rule 7.2-6A has been provided to a lawyer for an opposing party, the opposing lawyer is required to communicate with the person's lawyer, but only to the extent of the limited representation as identified by the lawyer. The opposing lawyer may communicate with the person on matters outside of the limited scope retainer.

**7.2-7** A lawyer who is not otherwise interested in a matter may give a second opinion to a person who is represented by a lawyer with respect to that matter.

### Commentary

[1] Rule 7.2-6 applies to communications with any person, whether or not a party to a formal adjudicative proceeding, contract or negotiation, who is represented by a lawyer concerning the matter to which the communication relates. A lawyer may communicate with a represented person concerning matters outside the representation. This rule does not prevent parties to a matter from communicating directly with each other.

[2] The prohibition on communications with a represented person applies only where the lawyer knows that the person is represented in the matter to be discussed. This means that the lawyer has actual knowledge of the fact of the representation, but actual knowledge may be inferred from the circumstances. This inference may arise when there is substantial reason to believe that the person with whom communication is sought is represented in the matter to be discussed. Thus, a