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Billing Increments

I've spoken to attorneys who bill by the quarter hour instead of by the tenth of the hour and have never had any backlash from clients. Pros and cons of each?

Terry A Berger, Westminster, Maryland

In FL, that is a BIG no-no, especially family law cases. So-called "unit billing" has been tossed out on attorney fee applications. We need sweep-second hands on our stopwatches for billing purposes, I guess  Howard Raab, Fort Lauderdale, Florida

How is billing by the quarter of an hour "unit billing?" I have billed by the quarter of an hour for years without complaint. Of course, I never bill for tasks that are 10 minutes or less anyway, including phone calls.

I think that many clients are suspect when they see bills that read "4.1 hours or 6.7 hours and assume that lawyers have randomly tacked on the .1 or .7 to make the bill look realistic. Clients like a sense of how long a task takes, but I don't think they differentiate much between a letter that took 45 minutes versus one that took 40 minutes (.75 hours versus .7 (or would you bill .6?) Beyond a general sense of the time involved in a task, clients care most about the overall reasonableness of the bill and how closely it matches what you initially budget.

Carolyn Elefant

For years at biglaw, I billed by 1/4 hours. Now I bill by tenths, but haven't had any feedback, good or bad from clients either way.

Shell Bleiweiss, Chicago and Barrington, Illinois

Within the last year, there was a case in either Tennessee or Kentucky (I believe), in which a firm was sanctioned for using 1/4 hour billing increments.

If you choose not to charge for tasks that take less than 15 minutes, it is still important to include them on you bill, with an n/c notation. However, I suspect that most lawyers who use a time model of billing don't want to write off time in this manner.

Carolyn, I can see how clients receiving bills that only reflect time in 15-minute increments might suspect that all entries are bulked up to meet the minimum billing increment.

As Ed Poll would say (if I may be so bold), the solution isn't to bill in quarter or tenths of an hour increments: it's to look into different billing models entirely, such as flat fee and value billing.



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Lisa Solomon, New York

I really do not think that the billing increments are the issue. As long as the billing process is explained to the client and the client agrees to it, you should be okay.

Back when I was at BIG LAWFIRM, it was the policy to bill on 1/4 hour increments. Then, they changed that policy to tenths of an hour. Clients generally welcomed the change.

Walter D. James III, Grapevine, Texas

I think the problem with the case you cite is that the fee was bumped up; no one wants a fee bumped up under either the tenth or quarter of hour increment.

But I agree with your larger point about fee alternatives; all of this niggling over .15 hours shows that the flat fee and alternatives make the most sense which is why I personally try to use them when possible.

Carolyn Elefant

I have seen, visited with clients who complained, and cross-examined attorneys on legal fees where the quarter hour system was criticized. Some clients object, some judges don't like it, and some juries don't understand it, or so my experience shows. Local practices may vary in differing parts of the country.

Darrell G. Stewart, San Antonio, Texas

Our timekeeping system --TABS -- keeps track of hundredths of hours. It's amazing how often a phone call or reading a letter SEEMS like it took 10 or 15 minutes when it was really only 3 or 4.

Wendy Lascher

Of course it's also amazing how a phone call or reading letter that seems to take 3-4 minutes actually took 15-20.

Jake London

I agree with WJ. The real issue is disclosure to the client. I disclose in my fee agreement that I bill by 10ths and may bill at minimum of .2 As a matter of course I often track .1 or .2 but enter it no charge. In actuality, most phone calls either take up more than .2 or distract me from what I was doing before the call more than the .2 Carolyn: If I did not bill for tel call at 10" a shot, I would not bill most of my day. I guess it depends on your practice. Randy Birch, Salt Lake City, Utah

Yes, the phone call took 3 or 4 minutes, but consider the effect of the interruption, taking notes, creating a to do item, and then picking up where you left off with whatever project you were working on before.

Paul Hogan

More than 10 years ago, a respected judge of the Superior Court of the District of Columbia held that billing by quarter hour increments was unreasonable and possibly in violation of the Rules of Professional Responsibility. The order involved recovery of attorney's fees.

The opinion was published in D.C. Law Reporter. The judge had practiced law for a number of years before ascending to the bench. My recollection was that the matter did not involve a national law firm but rather a midsize firm. The judge did not endorse any other time period but indicated that the court did not expect billing by the minute.

I do not recall whether there was an appeal.

I do not recall the judge's name but I recall the judge rode a motorcycle.

I bill by 10th of an hour. I have usually been able to explain to clients the utility of the practice.

Richard P. Schmitt, Washington, D.C.

Does anyone have a minimum charge that's more than 1/10 of an hour? E.g., phone calls are a minimum .2, letters .3, etc.

Scott I. Barer

When I receive a phone call, I stop what I'm doing, and turn on a Timeslips timer for the calling party. I then gather whatever information may be necessary to intelligently talk to the caller. Sometimes that's just a blank piece of paper, or to open a note file on my computer.

Then I talk to the caller, and take notes. When the call ends I either complete my notes, or at least make a note of the call. If I made notes into my computer, I print a hard copy and save the file. (I'm not paperless yet. But I'm working on it.) I then file the note or refer it for filing by my assistant. Then I complete the Timeslips entry, keeping the timer running.

Then go back to the matter I was working on, gather my wits so I can resume. THEN I turn off the timer on the phone call, and start the prior timer for the original work.

I bill in 10 minute increments (1/6 hr.) I've found that, in the vast majority of instances it takes more than 6 minutes to do anything. It also takes less than 15 for most minor things. 10 minutes is my compromise. I may not charge for some things, but I document everything. If I don't charge for something, I still show in on the bill, and "NC."

We require complete notes of physicians. Shouldn't we require them of ourselves? They come in very handy at times. Especially if you have a hard to please client.

If a client calls it's because they want something that they have already deemed important enough to speak directly to me. They've determined that the information has value.

Do not feel guilty about being paid for what you provide. Your grocer doesn't.

Dan Ringer

That is the BEST description ever of good billing practices. When I had to bill for defense work I was starting to prepare an article on billing but I could not ever get it right. I wanted to convince people to not short themselves -- I hated that my friends would say "It always takes 12 hours to bill 8". There was no way that was right to me (not when I knew some of them rarely ever "fooled around" at work), but I didn't want to sound like I was encouraging bill-padding -- which I was NOT.

Thank you for a very good description and how-to on capturing the actual time spent on a call.

Amy Kleinpeter, Pasadena, California

In my experience, the type of client makes this call. In many instances, for instance, insurance companies will not accept billing increments of other than a tenth of an hour. Our public defender service wants billing to be shown in tenths of an hour. Other types of clients have more flexibility. When I did non-insurance defense employment work for clients, we billed in quarter-hour increments.

Jeff Molenda, West Virginia

In fee shifting cases, especially employment discrimination cases, courts have not allowed minimum billing increments greater than 0.1.

Joel P. Bennett, Washington, DC

I think tenths is a nice workable pragmatic compromise. Quarter hours are going to rip clients off in the long run, and I am not disciplined enough to hit on/off buttons during multiple tasking days to bill hundredths.

Ultimately, we have to charge fairly and accurately for our time in actually doing things on behalf of our clients. The MA Supreme court had an opinion approving tenths years ago, and that's my position and I'm sticking with it.

Jim Moriarty, Iowa

I also bill in 1/10th hour increments, and always explain to the client that the 6 -minute increment is more fair to them than 15 minute increments...and that to go to an increment smaller than 1/10th hour would mean I'd spend all my time keeping track of my time, instead of getting work done. They all seem to wisely nod their heads, as if they understand, but more importantly, I've never had a client Q the time increment.

Laurie Axinn Gienapp, Bradford, Massachusetts

I agree it's a matter of what arrangements you have with the client. If your fee agreement provides for some kind of value billing (\$50 for a phone call, \$100 for a letter, \$10,000 to handle the DUI, or whatever) then the

increments are important only: (1) if it's a fee-shifting case and you will later have to convince a trier of fact or an administrative agency to award you X dollars; or (2) you want to know where your time goes.

However, if your deal with the client is that you'll bill by the hour, then the billing ought to approximate how your time is spent. I have no quarrel with the proposition that a phone call requires more time than you are actually on the phone, or at least some phone call do. But I do quarrel with an "hourly" bill that charges 15 minutes for you to look up someone's number, call, and get their voice mail, or charges 30 minutes for a call that took 16 minutes.

After all, if I go to the grocery store and buy T-bone steak for \$8 a pound, I want to pay only for the meat (and the bones -- which are inevitable, like the time you spend looking up phone numbers and making notes). I do not want to be charged \$8 a pound for the grocery bag, or the store's flyer advertising next week's specials, or the trimmings of the previous customer's purchase that happens to be left on the scale. In fact, in our county our district attorney would prosecute a store for advertising that steak costs \$8 a pound if the butcher were charging \$10 for a pound and 2 ounces -- which is precisely what happens if you bill in 15-minute increments for work that takes 7 minutes.

Wendy Lascher

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