

Proposed Rule Language (from earlier meetings)	Proposed Comment (from earlier meetings)
<p>(e) Referral fees paid to a lawyer who does not represent the client in the referred matter shall:</p> <ol style="list-style-type: none"> (1) not be paid up-front to the referring lawyer; (2) not be paid until such time as an attorney fee is payable to the lawyer representing the client in the referred matter; (3) not be passed directly or indirectly to the client; (4) be subject to the client giving informed consent confirmed in writing to the terms of the referral fee arrangement; and (5) comply with Rule 1.5(a) requirements of reasonableness of the total fee. 	<p>Referral Fees [Comment]</p> <p>[7] Paragraph (e) applies only to referral fees paid by one lawyer to another lawyer. For referral fees paid by a lawyer to a nonlawyer, see Rule 5.4. A lawyer should only refer a matter to a lawyer whom the referring lawyer reasonably believes is competent to handle the matter diligently. See Rules 1.1 and 1.3. Paragraph (e)(3) prohibits passing along the referral fee to the client either as a cost or an increase of the total fee.</p>
New Proposed Changes A (applies to all areas of practice)	New Proposed Changes B (limitations re: contingency fees)
<p>(e) Referral fees paid to a lawyer who does not represent the client in the referred matter shall:</p> <ol style="list-style-type: none"> (1) not be paid up front to the referring lawyer; (2) not be paid <u>unless and</u> until such time as an attorney fee is payable to the lawyer representing the client in the referred matter; (3) not be passed directly or indirectly to the client; (4) be subject to the client giving informed consent confirmed in writing to the terms of the referral fee arrangement; and (5) comply with Rule 1.5(a) requirements of reasonableness of the total fee. <p><i>Q. Will this work for all areas of practice?</i></p>	<p>(e) Referral fees paid to a lawyer who does not represent the client in the referred matter shall:</p> <ol style="list-style-type: none"> (1) not be paid up front to the referring lawyer; (2) not be paid until such time as an attorney fee is payable to the lawyer representing the client in the referred matter; (3) not be passed directly or indirectly to the client; (4) be subject to the client giving informed consent confirmed in writing to the terms of the referral fee arrangement; and (5) comply with Rule 1.5(a) requirements of reasonableness of the total fee. <u>(6) if the representation is based on a contingent fee arrangement, the following restrictions also apply:</u> <ol style="list-style-type: none"> <u>(i) a referral fee shall not be paid unless money is obtained for the client; and</u> <u>(ii) a referral fee in which compensation is paid solely for the referral shall not be more than 20% of the total contingent fee.</u> <p><i>Q. Are there other areas that need to be carved out?</i></p>

