

How Stringent Compliance with Local and State Rules Impact Your Firm's Bottom Line



stringent compliance

It's such a hassle, why bother?

Compliance requires more time; it increases your workload. It creates unnecessary stress and anxiety. It's certainly helpful for your business but it probably won't improve your bottom-line much.

Is this true?

Is compliance the dreary time sink so many believe it to be? Or is it a tool top performers use to outclass their stubborn peers?

Stringent Compliance: Your firm's unseen protector

Protector?

That sounds a bit exaggerated, doesn't it? The truth is a bit surprising. Not only is this claim *not* an exaggeration, it's an issue for a majority of law firms.

But why?

Why is compliance such an essential part of your firm's bottom-line?

It's all about avoiding loss.

Depending on your federal/state guidelines, clients and practice area, you may have a significant amount of compliance requirements to deal with. These billing and ethical mandates require that you approach billing in a disciplined way.

Many don't.

It's common for firms to ignore these billing guidelines. What's the harm after all? Maybe these compliance requirements are a case of rules that are technically required but rarely enforced.

It's a gamble to ignore. The main reason attorneys are expected to maintain compliance is to avoid a violation in the first place. But there are additional motivators, consequences a conscientious firm would prefer to avoid. What are they?

1. **Risk of litigation.** It goes without saying that non-compliance, especially the kind that affects employees and clients negatively, would provide injured parties with the impetus they need to take legal action.
2. **Damaged reputation.** Any direct/indirect consequences that stem from non-compliance will affect your firm's ability to attract new business. Once public, new clients will be motivated to take their business elsewhere. Severely hampering your ability to win new clients, maintain profitability or keep rainmakers.
3. **The most egregious cases may result in stiff penalties.** Initially, this isn't as damaging for firms with deep pockets. The consequences increase over time as firms struggle to stay afloat and maintain good standing.

What about the carrot?

A disciplined, self-policing firm is far more likely to receive grace and leniency than the firms showing a willful disregard of local and state rules. Making a serious attempt to maintain compliance may also be used to fight punitive

damages in the event of a serious violation.

It's the worst case scenario.

Your clients have compliance requirements too

Here's a typical scenario.

1. **You + client negotiate terms.** You outline the dos and don'ts, the expectations, deliverables, procedures and requirements. Once this is complete, you're able to get to work.
2. **Next, you add time entries.** Your associates and support teams fill out time sheets, carefully tracking their time for each matter.
3. **Receive payment.** You send your invoices to clients at the appropriate time. They're satisfied with your work. They pay your invoices promptly and on time, right?

Wrong.

Your clients have their own set of compliance requirements. If your invoice/statements don't meet these requirements they refuse to pay. This means you're forced to...

- Fix prebills and invoices
- Resubmit your prebill or invoice
- Deal with *yet another* rejected prebill or invoice
- Fix and resubmit

Over and over again.

You're continually losing money.

- Dealing with a *rejected invoice* you're now required to correct? **You lose money**
- Forced to *recreate a draft bill* **you lose money**
- Required to *edit a time sheet or time entry*? **You lose money**
- Adjustments made to a *non-compliant line item*? **You lose money**

If your invoice acceptance rate is less than 100 percent you're losing money.

This seems to be completely unrealistic; 100 percent acceptance doesn't leave you with a margin of safety. It's the goal you're striving for, a 70 to 90 percent acceptance rate isn't unreasonable.

Hmm... Seems impossible.

*It **is** impossible*, if you're missing the tools and resources you need to perform. That's precisely the problems many firms find themselves in.

Failure is inevitable, if you don't know the rules

Here's the challenge with billing guidelines. When it comes to timekeeping, many firms aren't aware of the rules. Many clients have "billing guidelines," a set of expectations that governs your relationship with them from a billing and timekeeping prospective.

It's all about the rules.

Explicit requirements

Block billing is forbidden

Will not "pay for others to learn"

No junior associates on client matters

Time in tenth of an hour increments

Approved fees and disbursements only

Implicit requirements

Won't pay for "excessive" work

Won't pay for research/clerical work

Unclear line items will be rejected

Staff continuity

Won't pay for firm overhead

See it?

The list of *spoken* and *unspoken* expectations?

This is key.

It's incredibly common for firms to bill the same way, for every client. The assumption here is this – most guidelines are similar so every bill will be correct/compliant.

Which is a false assumption.

It's a prudent idea to maintain a copy of all of your client's billing guidelines. These would ideally be stored in your document management system. A better idea? Create a concise summary that includes relevant notes and details. Your

summary should cover:

- Timekeeping requirements
- Fee requirements
- Expenses (approved/forbidden)
- Invoicing procedures
- Auditing (metrics and key performance indicators)

There's more.

Brian Brown and Paul D. Larimore share important billing guidelines in their thoughtful primer, [Pay Day Get Your Legal Bill Approved and Paid Quickly](#).

Here's a short summary.

- **Follow the rules.** Be sure to follow state, local and client guidelines. Work to make compliance an easy, simple and straightforward process in your firm. If it's easy to do and easy to maintain it's more likely to be done.
- **Be specific.** Entries like *"phone call with client"* and *"file review"* are much too vague. Give your clients the specificity they need. If you'd like to be paid for your work outline **what** you did, **who** you did it with and **why**. Specificity shows your clients what they're paying for. What does this mean? They're far more likely to pay for your work.
- **Be distinct.** What's wrong with this line item? *"Travel to court, attend hearing, meet with counsel, letter to client, 3.0 hours."* It's incredibly unclear. How long was the hearing? How much of the time was spent traveling? Did it take 2.5 hours to draft a letter? This line item should be broken down further. Each task should be distinct.
- **Use the minimum billable unit.** Most billing guidelines set the minimum unit for billing at one tenth of an hour. It's fairly standard as many review/receipt activities take less than six minutes. Here's a caveat. You want to make sure the minimum billing unit isn't overused or underused. Overuse is known as *"malicious compliance"* and may often be viewed as unethical. With contemporaneous (as-it-happens) timekeeping, it's easy to maintain compliance. Reconstructive timekeeping, for a variety of reasons, makes this process difficult, complicated and messy. It's less accurate and it consumes more billable time. It decreases client trust, increasing the likelihood of under billing or overbilling.
- **Bill support functions appropriately.** If you're unsure a simple question provides clarity. Is legal training or skill necessary to complete the task? If the answer is yes, the task is billable. If the answer is no, the task is

considered overhead and no professional should bill for it.

- **Bill attorney functions appropriately.** Your invoice should contain every item that is both reasonable and necessary. However, you want to avoid billing for *multiple attendances* (e.g. more than one biller at an event). Interoffice conferences and “*getting other associates up to speed.*”
- **Review your bill before sending it.** This is an obvious but neglected piece of advice. You want to review your bill carefully, working to spot: grammatical mistakes, double billing, noncompliance and line items in need of clarification (via preemptive phone call).

These best practices should be your defaults. What if you already have great habits? What if you’re already using timekeeping software that enables you to “*manage*” time entries?

The hidden risk with “*flexible*” timekeeping software

It seems to be an innovative and valuable feature. You’re allowed to update or edit records in your timekeeping software. This flexibility is key when you’re looking for a way to correct minor mistakes.

But it’s also *dangerous*.

Your timekeeping software *shouldn’t* be flexible. Is inflexibility an attempt to stifle innovation? No. On the contrary, it’s an attempt to *protect* your firm.

Flexible software encourages manipulation.

Flexible timekeeping software provides employers with the access they need to manipulate time entries and timesheets. To set up default rules that shave hours from employee paychecks, disguise edits to records of hours and wages.

This flexibility increases liability ***dramatically***.

It helps to legitimize theft, from both clients and employees. This becomes an immediate compliance nightmare for the unsuspecting law firm.

How?

There are, *at least*, two regulatory regimes that exercise authority over timekeeping.

1. The *S. Department of Labor's* (DOL) recordkeeping regulations and the...
2. *S. Department of Defense* (DOD) audit guidelines, as described in the DOD's *Defense Contract Audit Agency* (DCAA) Manual.

These agencies are focused on wage/labor law. Here's [what researchers have to say](#) about “flexible” timekeeping.

The use, misuse, and functionality of timekeeping software primarily affects employees paid on an hourly basis because their wages are a function of the number of hours worked. Hourly employees represented 58.5% of workers in the United States as of 2015.

Many of their employers are covered by the FLSA, which regulates any employer engaged in interstate commerce with two or more employees and annual sales of at least \$500,000. Those not covered by the FLSA are frequently covered by state laws, which often cover substantially all employers in the state.

Researchers went on to discuss the specific features that undermine wage/hour laws.

Broadly, the software features observed among *Category A programs* that can facilitate non-compliance include those that: **(i)** present situational cues that encourage supervisors to make unlawful edits to workers' raw time and attendance data; **(ii)** flag certain types of time entry for further scrutiny, and perhaps unlawful editing, by supervisors; and **(iii)** implement employers' own wage and hour rules, such as automatic break deductions.

While these features can be used in a manner that complies with federal and state wage and hour laws, they also permit noncompliant use. We contrast these features with *Category B software*, whose functionality tends to restrict non-compliant use.

Here's the problem.

Flexible software makes simple adjustments (i.e. cheating) easier. In their study, Category A software provided a significant amount of innovation and flexibility increasing fraud as a result.

See the major problem area?

It's reconstructive time entries. Tracking hours on a contemporaneous (as-it-happens) basis makes it easier to maintain compliance. Instead of relying on memory or recollection your team is required to add their time appropriately.

The benefits are obvious.

This largely eliminates: **(a.)** under billing, which impacts firm revenue negatively, **(b.)** overbilling which destroys client trust and increases liability and **(c.)** violations due to overly flexible software that encourages "creative edits."

This is sobering.

The convenience offered by "flexible software" *dramatically increases costly legal risk* for firms. In this context, *convenience produces a major liability*.

What does this mean?

Playing by the rules is crucial. You're most likely aware of the rules and regulations your firm needs to follow. You know compliance is important. What you may not know is this: your timekeeping software may undermine compliance with federal, state and local rules.

Stringent Compliance: The hidden protector your firm needs

At first glance it's a hassle.

A chore that increases your workload and demands more of your time. At times, compliance feels like it's *something done to you*, rather than *something done for you*. Initially it creates fear, stress and anxiety.

"Flexible software" isn't always the answer.

Stringent compliance is the answer. Your firm needs a compliant timekeeper. An easy-to-use tool that marries time tracking and compliance. An automatic timekeeper that follows the rules.

Do you have that now?

[It's at your fingertips.](#) With the right tools and procedures your associates and accountants will have everything they need to maintain compliance.

Try Bill4Time for free.