

	<p style="text-align: center;">American Bar Association CPR Policy Implementation Committee</p> <p style="text-align: center;">Variations of the ABA Model Rules of Professional Conduct</p> <p>Rule 1.14: Client with Diminished Capacity</p> <p>(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.</p> <p>(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.</p> <p>(c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.</p> <p>Variations from ABA Model Rule are noted. Based on reports of state committees reviewing recent changes to the model rules. For information on individual state committee reports, see http://www.abanet.org/cpr/jclr/home.html.</p> <p>Comments not included.</p> <p>*Current links to state Rules of Professional conduct can be found on the ABA website: http://www.abanet.org/cpr/links.html*</p>
<p>AL Effective 2/19/09</p>	<p>(a) Changes "capacity" to "ability"</p>
<p>AK Effective 4/15/09</p>	<p>(a) Changes "diminished" to "impaired;"</p> <p>(b) Changes "diminished" to "impaired;" adds "that the client" before "cannot adequately;"</p> <p>(c) Changes beginning of paragraph, until "capacity," to: "The confidences and secrets of a client with impaired capacity."</p>
<p>AZ Effective</p>	<p>Same as MR</p>

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12/1/03	
AR Effective 5/1/05	(b) adds to end: Extreme caution must be exercised by a lawyer before nominating the lawyer, a member or employee of the lawyer's firm, or a relative within the third degree or relationship to serve as guardian ad litem, conservator or guardian.
CA Current Rule	[California's Rules of Professional Conduct are structured differently from the ABA Model Rules. Please see California Rules : http://calbar.ca.gov/calbar/pdfs/rules/Rules_Professional-Conduct.pdf]
CO Effective 1/1/08	Same as MR
CT Effective 1/1/07	Same as MR
DE Effective 7/1/03	Same as MR
District of Columbia Effective 2/1/07	(b): replaces "guardian ad litem, conservator or guardian" with "surrogate decision-maker"
FL Effective 5/22/06	Title: same as former MR (a): same as former MR but adds "Maintenance of Normal Relationship." to beginning (b): same as former MR but adds "Appointment of Guardian." to beginning
GA* Effective 1/1/01	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> Title: Client Under a Disability; (a) Replaces "capacity" with "ability;" adds "age" to list of disabilities; replaces "mental impairment" with "mental or medical disability;" Does not have MR (b) or (c); Adds: <i>(b) A lawyer may seek the appointment of a guardian or take other protective action with respect to a client when the lawyer reasonably believes that the client cannot adequately act in the client's own interest.</i> <i>The maximum penalty for a violation of this Rule is a public reprimand.</i>
HI* Effective 1/1/94	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> (a) Replace "capacity" with "ability;" has "the representation" instead of "a representation;" has "impaired" instead of "diminished;" has "mental disability" instead of "mental impairment;"

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	Does not have MR (b) or (c); Adds: <i>(b) A lawyer may seek the appointment of a guardian or take other protective action with respect to a client, only when the lawyer reasonably believes that the client cannot adequately act in the client's own interest.</i>
ID Effective 7/1/04	Same as MR
IL Effective 1/1/2010	Same as MR
IN Effective 1/1/05	Adds as (d): This Rule is not violated if the lawyer acts in good faith to comply with the Rule.
IA Effective 7/1/05	Same as MR
KS Effective 7/1/07	Same as MR
KY Effective 7/15/09	(a) Adds "age" after "minority"
LA Effective 3/1/04	(b), at the end: replaces "guardian ad litem, conservator or guardian" with "fiduciary, including a guardian, curator or tutor, to protect the client's interests."
ME Effective 8/1/09	Same as MR
MD Effective 7/1/05	Same as MR
MA Rules effective 9/1/08	(b) Adds after "diminished capacity," "that prevents the client from making an adequately considered decision regarding a specific issue that is part of the representation;" replaces language after "client's own interest" with "the lawyer may take reasonably necessary protective action in connection with the representation, including consulting individuals or entities that have ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator, or guardian."
MI* Rules effective 10/1/88	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> Title: "Client Under a Disability;" (a) Has "ability" instead of "capacity;" has "impaired" instead of "diminished;" has "mental disability" instead of "mental impairment;"

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New Proposed 11/24/09	Does not have MR (b) or (c); Adds: <i>(b) A lawyer may seek the appointment of a guardian or take other protective action with respect to a client only when the lawyer reasonably believes that the client cannot adequately act in the client's own interest.</i> Same as 1988 Rule.
MN Effective 10/1/05	(b): changes "reasonable necessary" to "reasonable" (c): reference is to 1.6(b)(3)
MS Effective 11/3/05	Title: retains former MR (a) and (b): retains former MR (c): replaces "client with diminished capacity" with "client who may be impaired," deletes "reasonably"
MO Effective 7/1/07	(c) Changes "Rule 1.6(a)" to "Rule 4-1.6(a)" throughout.
MT Effective 4/1/04	Same as MR
NE Effective 9/1/05	Same as MR
NV Effective 5/1/06	Same as MR
NH Effective 1/1/08	Same as MR
NJ Effective 1/1/04	Did not change title
NM Effective 11/2/09	Changed to Rule 16-114; (a) Renamed " A. Client lawyer relationship; " (b) Renamed " B. Protective action; " (c) Renamed " C. Protected information. "
NY Effective 4/1/09	(a) Replaces "a normal client-lawyer" with "a conventional."
NC Effective 3/1/03	Same as MR
ND Effective	Replaces "diminished" with "limited" throughout rule

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8/1/06	
OH Effective 2/1/07	Same as MR
OK Effective 1/1/08	Same as MR
OR Effective 12/1/06	Same as MR
PA Effective 7/1/06	Same as MR
RI Effective 4/15/07	Same as MR
SC Effective 10/1/05	Same as MR
SD Effective 1/1/04	Same as MR
TN Effective 1/1/2011	Same as MR
TX* Effective 3/1/05	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> Does not have.
UT Effective 11/1/05	Same as MR
VT Effective 9/1/09	(a) Replaces “paragraph (b)” with “paragraph (b) or (d);” Adds new paragraph (d): “In an emergency where the health, safety, or a financial interest of a person with seriously diminished capacity is threatened with imminent and irreparable harm, a lawyer may take legal action on behalf of the person even though the person is unable to establish a client-lawyer relationship or to make or express considered judgments about the matter, provided that the following conditions exist: (1) The person or another person acting in good faith in that person’s behalf has consulted with the lawyer; (2) The lawyer reasonably believes that the person has no other lawyer, agent or other representative available The lawyer should take legal action on behalf of the person only to the extent reasonably necessary to maintain the status quo or otherwise avoid imminent and irreparable harm. A lawyer acting under this paragraph has

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	the same duties under these rules than the lawyer would have with respect to a client. The lawyer should take steps to regularize the relationship or implement other protective solutions as soon as possible.”
VA Effective 1/1/04	Title: Client with Impairment
WA Effective 9/1/06	Same as MR
WV* Effective 1/1/89	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> (a) Changes “client’s capacity” to “client’s ability;” changes “diminished” to “impaired;” Does not adopt MR (b) or (c) but adds instead: <i>(b) A lawyer may seek the appointment of a guardian or take other protective action with respect to a client, only when the lawyer reasonably believes that the client cannot adequately act in the client's own interest.</i>
WI Effective 7/1/07	Same as MR
WY Effective 7/1/06	Adds: (d) A lawyer appointed to act as a guardian ad litem represents the best interests of that individual, and shall act in the individual’s best interests even if doing so is contrary to the individual’s wishes. To the extent possible, however, the lawyer shall comply with paragraph (a) of this rule.

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