

	<p style="text-align: center;"><b>American Bar Association CPR Policy Implementation Committee</b></p> <p style="text-align: center;"><b>Variations of the ABA Model Rules of Professional Conduct</b></p> <p><b>Rule 1.9: Duties to Former Clients</b></p> <p>(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.</p> <p>(b) A lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client</p> <p style="padding-left: 40px;">(1) whose interests are materially adverse to that person; and</p> <p style="padding-left: 40px;">(2) about whom the lawyer had acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter;</p> <p>unless the former client gives informed consent, confirmed in writing.</p> <p>(c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:</p> <p style="padding-left: 40px;">(1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or</p> <p style="padding-left: 40px;">(2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.</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 <a href="http://www.abanet.org/cpr/jclr/home.html">http://www.abanet.org/cpr/jclr/home.html</a>.</p> <p>Comments not included.</p> <p>*Current links to state Rules of Professional conduct can be found on the ABA website: <a href="http://www.abanet.org/cpr/links.html">http://www.abanet.org/cpr/links.html</a>*</p>
<p>AL Effective 2/19/09</p>	<p>Text of Rule and paragraph (a) are similar to MR (a), but the Alabama code changes “gives...writing” to “consents after consultation;”</p> <p>(b) Similar to (c)(1) but changes “these Rules” to “Rule 1.6 or Rule 3.3.”</p>
<p>AK Effective 4/15/09</p>	<p>(c)(1) Changes language before “except as these Rules” to: <i>use confidences and secrets to the disadvantage of the former client;</i></p> <p>(c)(2) Changes “information” to “confidences and secrets.”</p>

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AZ Effective 12/1/03	(c) in introduction, deletes the words “or whose present or former firm has formerly represented a client”
AR Effective 5/1/05	Same as MR
CA Current Rule	[California’s Rules of Professional Conduct are structured differently from the ABA Model Rules. Please see California Rules : <a href="http://calbar.ca.gov/calbar/pdfs/rules/Rules_Professional-Conduct.pdf">http://calbar.ca.gov/calbar/pdfs/rules/Rules_Professional-Conduct.pdf</a> ]
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	Title: same as former MR Rule: same as MR (a) but deletes “confirmed in writing” Does not have MR (b) and (c)
FL Effective 5/22/06	Title: Conflict of Interest; Former Client First paragraph: “A lawyer who has formerly represented a client in a matter shall not thereafter” is an introductory paragraph before (a) (a): deleted “confirmed in writing” Does not have MR (b) or (c) (b): same as MR (c)(1)
GA* Effective 1/1/01	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i>  Changes “gives informed consent” to “consents after consultation” throughout; (a) Deletes “confirmed in writing;” (b)(2) Adds name to reference to Rule; (c)(1) and (2) Changes “these Rules” to “Rule 1.6: Confidentiality of Information or Rule 3.3: Candor Towards the Tribunal;” Adds to end: <i>The maximum penalty for a violation of this Rule is disbarment.</i>
HI* Effective 1/1/94	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i>  Title: “ <b>Rule 1.9. CONFLICT OF INTEREST: FORMER CLIENT;</b> ” Changes “gives informed consent” to “consents after consultation” throughout; (a) Deletes “confirmed in writing;”

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	(c)(1) and (2) Changes “these Rules” to “Rule 1.6 or Rule 3.3.”
ID Effective 7/1/04	Same as MR
IL Effective 1/1/2010	(a) Deletes “confirmed in writing;” (b)(2) Deletes “confirmed in writing.”
IN Effective 1/1/05	Same as MR
IA Effective 7/1/05	adds as (f): Prosecutors for the state or county shall not engage in the defense of an accused in any criminal matter during the time they are engaged in such public responsibilities. However, this paragraph does not apply to a lawyer not regularly employed as a prosecutor for the state or county who serves as a special prosecutor for a specific criminal case, provided that the employment does not create a conflict of interest or the lawyer complies with the requirements of rule 32:1.7(b).
KS Effective 7/1/07	Same as MR
KY Effective 7/15/09	Same as MR
LA Effective 3/1/04	Same as MR
ME Effective 8/1/09	(c)(1) and (2) are similar to MR, but replaces “information” with “confidences or secrets;” Adds (d): <i>(d) Matters are “substantially related” for purposes of this Rule if they involve the same transaction or legal dispute or if there otherwise is a substantial risk that confidential factual information as would normally have been obtained in the prior representation would materially advance the client’s position in the subsequent matter.</i>
MD Effective 7/1/05	Same as MR
MA Rules effective 9/1/08	Replaces “gives informed consent...writing” with “consents after consultation” throughout; (c) Adds to end of paragraph: “unless the former client consents after consultation;” (c)(1) Adds “confidential” before “information;” adds “to the lawyer's advantage, or to the advantage of a third person” before “except as;” replaces “these Rules” with “Rule 1.6, Rule 3.3, or Rule 4.1;” Deletes language after “with respect to a client;”

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	(c)(2) Adds “confidential” before “information;” replaces “these Rules” with “Rule 1.6 or Rule 3.3.”
MI* Rules effective 10/1/88  New Proposed 11/24/09	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>Changes “gives informed consent” to “consents after consultation” throughout;</p> <p>(a) Deletes clause, “confirmed in writing;”</p> <p>(b) Adds to beginning, “Unless the former client consents after consultation.”</p> <p>Same as 1988 Code.</p>
MN Effective 10/1/05	(b): deletes subsection numbers and deletes the words “that is material to the matter”
MS Effective 11/3/05	<p>Title: retains former MR</p> <p>A lawyer who has formerly represented a client in a matter shall not thereafter:</p> <p>(a) represent another in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation; or</p> <p>(b) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 would permit with respect to a client or when the information has become generally known.</p>
MO Effective 7/1/07	(b)(2) Adds to end: “unless the former client gives <a href="#">informed consent, confirmed in writing.</a> ”
MT Effective 4/1/04	Same as MR
NE Effective 9/1/05	<p>adds:</p> <p>(d) A lawyer shall not knowingly allow a support person to participate or assist in the representation of a current client in the same or a substantially related matter in which another lawyer or firm with which the support person formerly was associated had previously represented a client:</p> <p>(1) whose interests are materially adverse to the current client; and</p> <p>(2) about whom the support person has acquired confidential information that is material to the matter, unless the former client gives informed consent, confirmed in writing.</p> <p>(e) If a support person, who has worked on a matter, is personally prohibited from working on a particular matter under Rule 1.9(d), the lawyer or firm with which that person is presently associated will not be prohibited from representing the current client in that matter if:</p> <p>(1) the former client gives informed consent, confirmed in writing, or</p> <p>(2) the support person is screened from any personal participation in the</p>

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	<p>matter to avoid communication to others in the firm of confidential information that both the support person and the firm have a legal duty to protect.</p> <p>(f) For purposes of Rules 1.9(d) and (e), a support person shall mean any person, other than a lawyer, who is associated with a lawyer or a law firm and shall include but is not necessarily limited to the following: law clerks, paralegals, legal assistants, secretaries, messengers and other support personnel employed by the law firm. Whether one is a support person is to be determined by the status of the person at the time of the participation in the representation of the client.</p>
NV Effective 5/1/06	Same as MR
NH Effective 1/1/08	Same as MR
NJ Effective 1/1/04	<p>(a): A lawyer who has <del>formerly</del> represented a client in a matter shall not thereafter represent another <del>person</del> <u>client</u> in the same or a substantially related matter in which that <del>person's</del> <u>client's</u> interests are materially adverse to the interests of the former client unless the former client gives informed consent confirmed in writing.</p> <p>(b)(2), adds: about whom the lawyer, “while at the former firm, had personally...”</p> <p>adds after (b)(2): Notwithstanding the other provisions of this paragraph, neither consent shall be sought from the client nor screening pursuant to RPC 1.10 permitted in any matter in which the attorney had sole or primary responsibility for the matter in the previous firm.</p> <p>Adds (d): A public entity cannot consent to a representation otherwise prohibited by this Rule.</p>
NM Effective 11/2/09	<p>Changes to Rule 16-109;</p> <p>(a) Renamed “<b>A. Subsequent representation;</b>”</p> <p>(b) Renamed “<b>B. Subsequent representation; former law firm;</b>”</p> <p>(b)(2) Replaces “Rules 1.6 and 1.9(c)” with “Rule 16-106 and Paragraph C of Rule 16-109 of the Rules of Professional Conduct;”</p> <p>(c) Renamed “<b>C. Former representation;</b>” “Rules” becomes lowercase in all instances.</p>
NY Effective 4/1/09	<p>Moves clause, “unless the former client gives informed consent, confirmed in writing” to beginning of paragraph (b);</p> <p>(c)(1) Changes “information...former client” to “confidential information of the former client protected by Rule 1.6.”</p>
NC Effective 3/1/03	Same as MR
ND Effective	<p>(a), changes end: unless the former client consents in writing</p> <p>(b)(2): ends after “matter;” remaining language is not in subparagraph:</p>

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8/1/06	<p>“unless the former client consents in writing”</p> <p>(c)(1): adds after “former client” “in the same or a substantially related matter”</p>
OH Effective 2/1/07	<p>(a): moves “unless the former client gives informed consent, confirmed in writing” from end of rule to beginning</p> <p>(b): moves “unless the former client gives informed consent, confirmed in writing” from end of (b)(2) to beginning of (b), adds “where both of the following apply” to end</p> <p>(b)(1): “the interests of the client” replaces “whose interest”</p> <p>(b)(2) the lawyer had acquired information about the client that is protected by Rules 1.6 and 1.9(c) and material to the matter.</p> <p>(c): adds “do either of the following” to end</p>
OK Effective 1/1/08	Same as MR
OR Effective 12/1/06	<p>Requires in (a) and (b) that “each affected client” give informed consent rather than just the former client.</p> <p>Adds (d) For purposes of this rule, matters are “substantially related” if (1) the lawyer’s representation of the current client will injure or damage the former client in connection with the same transaction or legal dispute in which the lawyer previously represented the former client; or (2) there is a substantial risk that confidential factual information as would normally have been obtained in the prior representation of the former client would materially advance the current client’s position in the subsequent matter.</p>
PA Effective 7/1/06	does not include "confirmed in writing" in (a) and (b).
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	<p>(b) Adds at the beginning: “Unless the former client gives informed consent, confirmed in writing,”</p> <p>(b)(2) Deletes the rest of the sentence starting with “unless;”</p> <p>(c) Deleted subparagraphs (c)(1) and (2) and changes language after “shall not thereafter” to: “reveal information relating to the representation or use such information to the disadvantage of the former client unless (1) the former client gives informed consent, confirmed in writing, or (2) these Rules would permit or require the lawyer to do so with respect to a client, or (3) the information has become generally known.”</p>
TX*	<i>*Has not amended Rule since the most recent amendments to the ABA</i>

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<p>Effective 3/1/05</p>	<p><i>Model Rules</i></p> <p><b>Rule 1.09 Conflict of Interest: Former Client;</b>  <i>(a) Without prior consent, a lawyer who personally has formerly represented a client in a matter shall not thereafter represent another person in a matter adverse to the former client:</i>  <i>(1) in which such other person questions the validity of the lawyer's services or work product for the former client;</i>  <i>(2) if the representation in reasonable probability will involve a violation of Rule 1.05; or</i>  <i>(3) if it is the same or a substantially related matter.</i>  <i>(b) Except to the extent authorized by <a href="#">Rule 1.10</a>, when lawyers are or have become members of or associated with a firm, none of them shall knowingly represent a client if any one of them practicing alone would be prohibited from doing so by paragraph (a).</i>  <i>(c) When the association of a lawyer with a firm has terminated, the lawyers who were then associated with that lawyer shall not knowingly represent a client if the lawyer whose association with that firm has terminated would be prohibited from doing so by paragraph (a)(1) or if the representation in reasonable probability will involve a violation of <a href="#">Rule 1.05</a>.</i></p>
<p>UT Effective 11/1/05</p>	<p>Same as MR</p>
<p>VT Effective 9/1/09</p>	<p>Same as MR</p>
<p>VA Effective 1/1/04</p>	<p>Title: same as former MR            (a) and (b)(2): replaces language after “unless” with “both the present and former client consent after consultation”            (c)(1): same as former MR but adds “or gained in the course of” after “relating to”            (c)(2): same as former MR</p>
<p>WA Effective 9/1/06</p>	<p>Same as MR</p>
<p>WV* Effective 1/1/89</p>	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>Body of Rule is first clause, until “thereafter,” of paragraph (a);            (a) is similar to MR, without the first clause, until “thereafter;”            (b) is similar to MR (c)(1), but changes “these Rules” to “Rule 1.6 or Rule 3.3;”            Does not adopt MR (b), (c) or (c)(2).</p>
<p>WI Effective</p>	<p>(a) and (b)(2): adds “signed by the client” to end</p>

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7/1/07	
WY Effective 7/1/06	(a) and (b)(2), changes end: “unless the former client makes an informed decision to waive the conflict, confirmed in writing signed by the client.” (c)(1) and (2): uses “confidential information”

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