

	<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 style="text-align: center;"><b>Rule 3.4: Fairness to Opposing Party and Counsel</b></p> <p>A lawyer shall not:</p> <ul style="list-style-type: none"><li>(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;</li><li>(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;</li><li>(c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;</li><li>(d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;</li><li>(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or</li><li>(f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:<ul style="list-style-type: none"><li>(1) the person is a relative or an employee or other agent of a client; and</li><li>(2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.</li></ul></li></ul> <p>Variations from ABA Model Rule are noted. Based on reports of state committees reviewing recent changes to the model rules. For information</p>
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	<p>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>
AL Effective 2/19/09	<p>Does not adopt MR (d) or (e);</p> <p>(d) is similar to MR (f);</p> <p>(d)(1) Combines MR (f)(1) and (2);</p> <p>Adds (d)(2) and (3):</p> <p style="padding-left: 40px;"><i>(2) the person may be required by law to refrain from disclosing the information; or</i></p> <p style="padding-left: 40px;"><i>(3) the information pertains to covert law enforcement investigations in process, such as the use of undercover law enforcement agents.</i></p>
AK Effective 4/15/09	<p>(a) Similar to text of MR Rule and (a), but in last sentence changes “A lawyer shall not counsel” to “nor shall a lawyer counsel;”</p> <p>(b) Adds to beginning, “A lawyer shall not;”</p> <p>(c) Changes wording: Adds “A lawyer shall not” before “knowingly,” adds “violate or” before “disobey,” adds “an order of the tribunal or” before “an obligation,” adds “that the order is invalid or” before “that no...exists;”</p> <p>(d) Deletes “in pretrial procedure” and adds “A lawyer shall not” to beginning;</p> <p>(e) Adds “A lawyer shall not” to beginning, divides last sentence into two, ending the first sentence after “admissible evidence,” and adds “A lawyer shall not” to beginning of last sentence;</p> <p>(f) Combines MR (f), (f)(1) and (f)(2).</p>
AZ Effective 12/1/03	Same as MR
AR Effective 5/1/05	Same as MR
CA Current Rule	<p>[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>]</p>
CO Effective 1/1/08	(f)(1) Adds to end: “and the lawyer is not prohibited by other law from making such a request; and.”
CT Effective 1/1/07	<p>(1) – (6): same as MR (a) – (f)</p> <p>Adds (7) Present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.</p>
DE Effective 7/1/03	Same as MR
District of Columbia	(a): deletes both instances of “unlawfully,” replaces material after “conceal” with “evidence, or counsel or assist another person to do so, if

Effective 2/1/07	<p>the lawyer reasonably should know that the evidence is or may be the subject of discovery or subpoena in any pending or imminent proceeding. Unless prohibited by law, a lawyer may receive physical evidence of any kind from the client or from another person. If the evidence received by the lawyer belongs to anyone other than the client, the lawyer shall make a good-faith effort to preserve it and to return it to the owner, subject to Rule 1.6”</p> <p>Adds (g) Peremptorily strike jurors for any reason prohibited by law.</p>
FL Effective 5/22/06	<p>(a) unlawfully obstruct another party's access to evidence or otherwise unlawfully alter, destroy, or conceal a document or other material that the lawyer knows or reasonably should know is relevant to a pending or a reasonably foreseeable proceeding; nor counsel or assist another person to do any such act;</p> <p>(b) fabricate evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness, except a lawyer may pay a witness reasonable expenses incurred by the witness in attending or testifying at proceedings; a reasonable, noncontingent fee for professional services of an expert witness; and reasonable compensation to reimburse a witness for the loss of compensation incurred by reason of preparing for, attending, or testifying at proceedings;</p> <p>(d): replaces “fail to make reasonably diligent effort” with “intentionally fail”</p> <p>(e): adds “state a personal opinion about the credibility of a witness unless the statement is authorized by current rule or case law” before “allude,” deletes “the credibility of a witness” after “cause”</p> <p>(f): combines MR (f) and (f)(1) and (2) into one paragraph, replaces “the lawyer reasonably believes” with “it is reasonably to believe”</p> <p>Adds: (g) present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter; or</p> <p>Adds: (h) present, participate in presenting, or threaten to present disciplinary charges under these rules solely to obtain an advantage in a civil matter.</p>
GA* Effective 1/1/01	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>(b) Separates into three paragraphs; language after “testify falsely” replaced with:</p> <p><i>(3) pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of the testimony or the outcome of the case. But a lawyer may advance, guarantee, or acquiesce in the payment of:</i></p> <p><i>(i) expenses reasonably incurred by a witness in preparation, attending or testifying;</i></p> <p><i>(ii) reasonable compensation to a witness for the loss of time in preparing, attending or testifying;</i></p> <p><i>(iii) a reasonable fee for the professional services of an</i></p>

	<p><i>expert witness;</i></p> <p>Does not have MR (c), (d), or (e);</p> <p>Adds:</p> <p><i>(f)(2) the information is subject to the assertion of a privilege by the client; and</i></p> <p>(f)(3) is similar to MR (f)(2) but adds to end: “and the request is not otherwise prohibited by law;”</p> <p>Adds:</p> <p><i>(g) use methods of obtaining evidence that violate the legal rights of the opposing party or counsel; or</i></p> <p><i>(h) present, participate in presenting or threaten to present criminal charges solely to obtain an advantage in a civil matter. The maximum penalty for a violation of this Rule is disbarment.</i></p>
<p>HI*</p> <p>Effective 1/1/94</p>	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>(b) is MR (b) through “falsely;”</p> <p>(c) is part of MR (b), from “offer...by law” and adds: “<i>or pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of [the witness'] testimony or the outcome of the case. But a lawyer may advance, guarantee, or acquiesce in the payment of:</i></p> <p><i>(1) expenses reasonably incurred by a witness in attending or testifying;</i></p> <p><i>(2) reasonable compensation to a witness for [the witness'] loss of time in attending or testifying; or</i></p> <p><i>(3) a reasonable fee for the professional services of an expert witness;</i></p> <p>Adds:</p> <p><i>(d) advise or cause a person to secrete himself [or herself] or to leave the jurisdiction of a tribunal for the purpose of making [the person] unavailable as a witness therein;</i></p> <p>(e) is MR (c);</p> <p>Adds:</p> <p><i>(f) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;</i></p> <p>(g) is MR (e);</p> <p>(h) is MR (f);</p> <p>Adds:</p> <p><i>(i) present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.</i></p>
ID Effective 7/1/04	Same as MR
IL Effective 1/1/2010	Same as MR
IN Effective 1/1/05	Same as MR

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IA Effective 7/1/05	Same as MR
KS Effective 7/1/07	Same as MR
KY Effective 7/15/09	(b) Adds “knowingly” to beginning; Adds (f): (f) present, participate in presenting, or threaten to present criminal or disciplinary charges solely to obtain an advantage in any civil or criminal matter; or (g) Same as MR (f); (g)(1) Replaces language after (f)(1) and replaces with: “or agent who supervises, directs or regularly consults with the client concerning the matter or has authority to obligate the client with respect to the matter.”
LA Effective 3/1/04	Same as MR
ME Effective 8/1/09	(d) Reserved.
MD Effective 7/1/05	Same as MR
MA Rules effective 9/1/08	Adds: <i>(g) pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of his or her testimony or the outcome of the case. But a lawyer may advance, guarantee, or acquiesce in the payment of:</i> <i>(1) expenses reasonably incurred by a witness in attending or testifying</i> <i>(2) reasonable compensation to a witness for loss of time in attending or testifying</i> <i>(3) a reasonable fee for the professional services of an expert witness;</i> <i>(h) present, participate in presenting, or threaten to present criminal or disciplinary charges solely to obtain an advantage in a private civil matter; or</i> <i>(i) in appearing in a professional capacity before a tribunal, engage in conduct manifesting bias or prejudice based on race, sex, religion, national origin, disability, age, or sexual orientation against a party, witness, counsel, or other person. This paragraph does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, or sexual orientation, or another similar factor is an issue in the proceeding.</i>
MI Rules effective 10/1/88	(a) Replaces first semicolon with “or;” adds at the end after semicolon: “or counsel or assist another person to do any such act;” deletes last sentence; (e) Changes “in trial” to “during trial;” (f)(1) Deletes “a relative or;” adds to end “for the purposes of MRE

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Amendments effective 1/1/2011	801(d)(2)(D)."
MN Effective 10/1/05	Same as MR
MS Effective 11/3/05	Same as MR
MO Effective 7/1/07	Same as MR
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	adds (g): "present, participate in presenting, or threaten to present criminal charges to obtain an improper advantage in a civil matter."
NM Effective 11/2/09	Changed to Rule 16-304; Subparagraphs (a) through (f) are capitalized, changed to "A" through "F."
NY Effective 4/1/09	<p><i>A lawyer shall not:</i></p> <p><i>(a) (1) suppress any evidence that the lawyer or the client has a legal obligation to reveal or produce;</i></p> <p><i>(2) advise or cause a person to hide or leave the jurisdiction of a tribunal for the purpose of making the person unavailable as a witness therein;</i></p> <p><i>(3) conceal or knowingly fail to disclose that which the lawyer is required by law to reveal;</i></p> <p><i>(4) knowingly use perjured testimony or false evidence;</i></p> <p><i>(5) participate in the creation or preservation of evidence when the lawyer knows or it is obvious that the evidence is false; or</i></p> <p><i>(6) knowingly engage in other illegal conduct or conduct contrary to these Rules;</i></p> <p><i>(b) offer an inducement to a witness that is prohibited by law or pay, offer to pay or acquiesce in the payment of compensation to a witness contingent upon the content of the witness's testimony or the outcome of the matter. A lawyer may advance, guarantee or acquiesce in the payment</i></p>

	<p><i>of:</i></p> <p><i>(1) reasonable compensation to a witness for the loss of time in attending, testifying, preparing to testify or otherwise assisting counsel, and reasonable related expenses; or</i></p> <p><i>(2) a reasonable fee for the professional services of an expert witness and reasonable related expenses;</i></p> <p><i>(c) disregard or advise the client to disregard a standing rule of a tribunal or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take appropriate steps in good faith to test the validity of such rule or ruling;</i></p> <p><i>(d) in appearing before a tribunal on behalf of a client:</i></p> <p><i>(1) state or allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence;</i></p> <p><i>(2) assert personal knowledge of facts in issue except when testifying as a witness;</i></p> <p><i>(3) assert a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused but the lawyer may argue, upon analysis of the evidence, for any position or conclusion with respect to the matters stated herein; or</i></p> <p><i>(4) ask any question that the lawyer has no reasonable basis to believe is relevant to the case and that is intended to degrade a witness or other person; or</i></p> <p><i>(e) present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.</i></p>
NC Effective 3/1/03	<p>(b): adds "counsel or assist a witness to hide or leave the jurisdiction for the purpose of being unavailable as a witness"</p> <p>(c): adds "or advise a client to disobey"; (c) is worded differently but same idea of testing the validity of an obligation</p> <p>(e): adds "ask an irrelevant question that is intended to degrade a witness"</p>
ND Effective 8/1/06	<p>(a): does not have second sentence</p>
OH Effective 2/1/07	<p>First paragraph: adds to end "do any of the following"</p> <p>(a): replaces "or" after "evidence" with ";;" and ". A lawyer shall not" after "value" with ";; or"</p> <p>(c): adds "good faith" before "assertion"</p> <p>(d): adds "intentionally or habitually" after "procedure," "motion or" before "discovery"</p> <p>(e): adds "or by a good-faith belief that such evidence may exist" after "evidence"</p> <p>(f): did not adopt</p> <p>Adds (g) advise or cause a person to hide or to leave the jurisdiction of a tribunal for the purpose of becoming unavailable as a witness.</p>

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OK Effective 1/1/08	Same as MR
OR Effective 12/1/06	(a): adds “knowingly and” to beginning. (b): adds at the end: ; or pay, offer to pay, or acquiesce in payment of compensation to a witness contingent upon the content of the witness's testimony or the outcome of the case; except that a lawyer may advance, guarantee or acquiesce in the payment of: (1) expenses reasonably incurred by a witness in attending or testifying; (2) reasonable compensation to a witness for the witness' loss of time in attending or testifying; or (3) a reasonable fee for the professional services of an expert witness. (f): advise or cause a person to secrete himself or herself or to leave the jurisdiction of a tribunal for purposes of making the person unavailable as a witness therein; or adds (g): threaten to present criminal charges to obtain an advantage in a civil matter unless the lawyer reasonably believes the charge to be true and if the purpose of the lawyer is to compel or induce the person threatened to take reasonable action to make good the wrong which is the subject of the charge.
PA Effective 7/1/06	(a): combines the two sentences into one sentence. (b): falsify evidence, counsel or assist a witness to testify falsely, pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of the witness' testimony or the outcome of the case; but a lawyer may pay, cause to be paid, guarantee or acquiesce in the payment of: (1) expenses reasonably incurred by a witness in attending or testifying,  (2) reasonable compensation to a witness for the witness' loss of time in attending or testifying, and (3) a reasonable fee for the professional services of an expert witness; Does not include Model Rule (c) or (d). (c), MR (e), is worded differently: When appearing before a tribunal, assert the lawyer's personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused; but the lawyer may argue, on the lawyer's analysis of the evidence, for any position or conclusion with respect to the matters stated herein. (d), MR (f); includes at the end of (2): and such conduct is not prohibited by Rule 4.2.
RI Effective 4/15/07	Same as MR
SC Effective 10/1/05	Same as MR
SD Effective 1/1/04	Same as MR



<p>TN Effective 1/1/2011</p>	<p>Adds “or” at the end of subparagraphs (a)-(e)            (b) Replaces language following “assist a witness” to: “to offer false or misleading testimony; or;”            (e) Divides into three subparagraphs: (1) “allude to...evidence;” (2) “assert personal...witness; or;” (3) “state a personal...accused; or;”            Adds to end:  <i>(g) request or assist any person to take action that will render the person unavailable to appear as a witness by way of deposition or at trial; or</i>  <i>(h) offer an inducement to a witness that is prohibited by law; or pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent on the content of his or her testimony or the outcome of the case. A lawyer may advance, guarantee, or acquiesce in the payment of:</i>  <i>(1) expenses reasonably incurred by a witness in attending or testifying;</i>  <i>(2) reasonable compensation to a witness for that witness’s loss of time in attending or testifying; or</i>  <i>(3) a reasonable fee for the professional services of an expert witness.</i></p>
<p>TX* Effective 3/1/05</p>	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>(a) Adds “in anticipation of a dispute unlawfully” before “alter;” deletes “A lawyer shall not” before “counsel” and adds “or” in its place;            (b) Deletes language after “falsely” and adds instead: “<i>or pay, offer to pay, or acquiesce in the offer or payment of compensation to a witness or other entity contingent upon the content of the testimony of the witness or the outcome of the case. But a lawyer may advance, guarantee, or acquiesce in the payment of:</i>  <i>(1) expenses reasonably incurred by a witness in attending or testifying;</i>  <i>(2) reasonable compensation to a witness for his loss of time in attending or testifying;</i>  <i>(3) a reasonable fee for the professional services of an expert witness.</i>            Adds:  <i>(c) except as stated in paragraph (d), in representing a client before a tribunal:</i>  <i>(1) habitually violate an established rule of procedure or of evidence;</i>  <i>(2) state or allude to any matter that the lawyer does not reasonably believe is relevant to such proceeding or that will not be supported by admissible evidence, or assert personal knowledge of facts in issue except when testifying as a witness;</i>  <i>(3) state a personal opinion as to the justness of a cause,</i></p>

	<p><i>the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused, except that a lawyer may argue on his analysis of the evidence and other permissible considerations for any position or conclusion with respect to the matters stated herein;</i></p> <p><i>(4) ask any question intended to degrade a witness or other person except where the lawyer reasonably believes that the question will lead to relevant and admissible evidence; or</i></p> <p><i>(5) engage in conduct intended to disrupt the proceedings.</i></p> <p>(d) is similar to MR (c) but adds clause, “or advise the client to disobey,” after “disobey;” changes “rules of a tribunal” to “standing rules of or a ruling by a tribunal;” adds “either” before “on an assertion” and adds to end: “or on the client’s willingness to accept any sanctions arising from such disobedience;”</p> <p>Does not have MR (d) or (e);</p> <p>(e) is MR (f).</p>
UT Effective 11/1/05	Same as MR
VT Effective 9/1/09	Same as MR
VA Effective 1/1/04	<p>(a): deletes both uses of “unlawfully” and adds “for the purpose of obstructing a party’s access to evidence” to end of first sentence</p> <p>Adds (b) Advise or cause a person to secrete himself or herself or to leave the jurisdiction of a tribunal for the purpose of making that person unavailable as a witness therein.</p> <p>(c): same as MR (b) but adds to end “But a lawyer may advance, guarantee, or pay:</p> <p>(1) reasonable expenses incurred by a witness in attending or testifying;</p> <p>(2) reasonable compensation to a witness for lost earnings as a result of attending or testifying;</p> <p>(3) a reasonable fee for the professional services of an expert witness.”</p> <p>(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.</p> <p>(e): same as MR (d) but deletes “in pretrial procedure”</p> <p>(f): same as MR (e)</p> <p>Adds (g) Intentionally or habitually violate any established rule of procedure or of evidence, where such conduct is disruptive of the proceedings.</p> <p>(h): same as MR (f)</p> <p>Adds (h)(1) the information is relevant in a pending civil matter;</p> <p>(h)(2): same as MR (f)(1) but adds “in a civil matter” after “person” and “current or former” before “employee”</p> <p>Adds (i) Present or threaten to present criminal or disciplinary charges</p>

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	solely to obtain an advantage in a civil matter. Adds (j) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.
WA Effective 9/1/06	(f): did not adopt
WV* Effective 1/1/89	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i>  Same as MR
WI Effective 7/1/07	Same as MR
WY Effective 7/1/06	Same as MR

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