

**Comparison of Newly Adopted Alabama Rules of Professional Conduct
with ABA Model Rules**

	ALABAMA
Preamble	<p>New rules as adopted by Alabama Supreme Court to be effective 2/19/09. Variations from the Model Rules are noted. Rules only; comment comparison not included.</p> <p>[1] Alabama Code deletes clause, “as a member of the legal profession;” [2] Adds, after “honest dealings with others:” <i>As intermediary between clients, a lawyer seeks to reconcile these divergent interests as an advisor to and, to a limited extent, as a spokesperson for each client;</i> changes order of phrases, “aw an evaluator” and “a lawyer acts;” Does not adopt MR [3] MR [4] is the same as Alabama [3] MR [5] Same as AL [4] MR [6] Similar to AL [5] but deletes “access to the legal system;” deletes sentence starting with “In addition, a lawyer should further” and ending with “maintain their authority;” shortens sentence, “Therefore...secure adequate legal counsel,” and adds to previous sentence. MR [7] Same as AL [6] MR [8] Same as AL [7] MR [9] is similar to AL [8], but deletes “although” from sentence beginning with “Within the framework of these rules;” deletes “these principles...the legal system” at end of paragraph.</p>
Scope	<p>Deletes sentence beginning with “The Comments are sometimes” Combines [15] and [16] into one paragraph. [17] Deletes “See Rule 1.8” [18] Adds as second-to-last sentence, <i>They also may have authority to represent the “public interest” in circumstances where a private lawyer would not be authorized to do so.</i> [20] Deletes sentence: “In addition, violation...pending litigation;” replaces last sentence with: <i>Accordingly, nothing in the Rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty.</i> Adds between [20] and [21]: <i>Moreover, these Rules are not intended to govern or affect judicial application of either the attorney-client or work product privilege. Those privileges were developed to promote compliance with law and fairness in litigation. In reliance on the attorney-client privilege, clients are entitled to expect that communications within the scope of the privilege will be protected against compelled disclosure. The attorney-client privilege is that of the client and not of the lawyer. The fact that in exceptional situations the lawyer under the Rules has a limited discretion to disclose a client confidence does not vitiate the</i></p>

	<p><i>proposition that, as a general matter, the client has a reasonable expectation that information relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges.</i></p> <p><i>The lawyer's exercise of discretion not to disclose information under Rule 1.6 should not be subject to reexamination. Permitting such reexamination would be incompatible with the general policy of promoting compliance with law through assurances that communications will be protected against disclosure.</i></p> <p>Adds to end of [21]:</p> <p><i>Research notes were prepared by the Alabama State Bar Permanent Code Commission to compare counterparts in the former Alabama Code of Professional Responsibility and to provide selected references to other authorities. These were intended by the Commission to assist in the study by the Court of the proposed Rules and in the transition by the lawyer from the former Code of Professional Responsibility to these Rules of Professional Conduct. The notes have not been adopted by the Court, do not constitute part of the Rules, and are not intended to affect the application or interpretation of the Rules and Comments.</i></p>
<p>Rule 1.0</p>	<p>Deletes "Confirmed in Writing;"</p> <p>Adds: "<i>Consult</i>" or "<i>consultation</i>" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question;</p> <p>"Firm:" changes "law partnership... association" to "private firm;" changes everything after "firm" to: "lawyers employed in the legal department of a corporation or other organization, and lawyers employed in a legal services organization. See Comment, Rule 1.10;"</p> <p>Changes definition of "Fraud..." to: <i>denotes conduct having a purpose to deceive and not merely negligent misrepresentation or failure to apprise another of relevant information.</i></p> <p>Adds: "<i>Nonlawyer assistant</i>" denotes any nonlawyer employee, full or part-time, of a lawyer or law firm;</p> <p>"Partner:" Deletes everything after "professional corporation;"</p> <p>Deletes "screened;"</p> <p>Deletes "tribunal;"</p> <p>Deletes "writing."</p>
<p>Rule 1.1</p>	<p>Same as MR</p>
<p>Rule 1.2</p>	<p>(a) Adds "and (e)" to clause, "subject to...(d)," and moves to after "objects of representation;" removes clause, "as required by Rule 1.4;" Deletes sentence, "A lawyer may take such action;"</p> <p>(c) Similar to MR but changes wording to: <i>A lawyer may limit the objectives of the representation if the client consents after consultation;</i></p> <p>Adds (e): <i>When a lawyer knows that a client expects assistance not permitted by the Rules of Professional Conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.</i></p>

Rule 1.3	Changes text to: <i>A lawyer shall not willingly neglect a legal matter entrusted to him.</i>
Rule 1.4	(a) Shortens to: <i>A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.</i>
Rule 1.5	<p>(a) Equivalent to MR but changes wording to: <i>A lawyer shall not enter into an agreement for, or charge, or collect a clearly excessive fee. In determining whether a fee is excessive the factors to be considered are the following</i> <i>Adds (a)(8): where there is a written fee agreement signed by the client</i> <i>Replaces (b) with: (b) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.</i></p> <p>(c) Deletes sentence beginning with, “The agreement must clearly;”</p> <p>(e)(1) First part of paragraph is similar to first part of MR (e)(1); adds: <i>or (b) written agreement with the client, each lawyer assumes joint responsibility for the representation, or (c) in a contingency fee case, the division is between the referring or forwarding lawyer and the receiving lawyer.</i></p> <p>(2) <i>the client is advised of and does not object to the participation of all the lawyers involved;</i></p> <p>(3) <i>the client is advised that a division of fee will occur; and</i></p> <p>(4) is equivalent to MR (3) but with different wording: <i>The total fee is not clearly excessive.</i></p> <p>Adds (f): <i>Without prior notification to and prior approval of the appointing court, no lawyer appointed to represent an indigent criminal defendant shall accept any fee in the matter from the defendant or anyone on the defendant's behalf. A lawyer appointed to represent an indigent criminal defendant may separately hold property or funds received from the defendant or on the defendant's behalf which are intended as a fee for the representation, as provided for by Rule 1.15, only if the lawyer promptly notifies the appointing court and promptly seeks its approval for accepting the property or funds as a fee.</i></p>
Rule 1.6	<p>(a) Replaces “gives informed consent” with “consents after consultation;” changes “the disclosure is” to “except for disclosures that are;” changes “or the disclosure is permitted” to “and except as states in paragraph (b)”</p> <p>(b) Deletes “relating to the representation of a client”</p> <p>Replaces (b)(1) with: “to prevent the client from committing a criminal act that the lawyer believes is likely to result in imminent death or substantial bodily harm; or”</p> <p>(b)(2) is identical to MR (b)(5)</p> <p>Does not adopt (b)(2), (3), (4), and (6);</p> <p>Does not adopt 2003 Task Force changes</p>
Rule 1.7	Deletes clause, “Except as provided by paragraph (b);” adds “of that client” after “representation;” replaces “involves...exists if” with, “will be directly adverse to another client, unless”

	<p>(a)(1) is comparable to MR, but with significantly different wording: “the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and”</p> <p>Adds as (a)(2): each client consents after consultation</p> <p>Adds as (b):</p> <p><i>(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:</i></p> <p><i>(1) the lawyer reasonably believes the representation will not be adversely affected; and</i></p> <p><i>(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.</i></p>
Rule 1.8	<p>(a)(2) Deletes clause, “is advised...of seeking and;”</p> <p>(a)(3) Shortened to read simply: <i>the client consents in writing hereto</i></p> <p>(b) Changes “gives informed consent” to “consents after consultation;” changes “these Rules” to “Rule 1.6 or Rule 3.3;”</p> <p>(c) Shortens and changes wording to: <i>A lawyer shall not prepare an instrument giving the lawyer or a person related to the lawyer as parent, child, sibling, or spouse any substantial gift from a client, including a testamentary gift, except where the client is related to the donee.</i></p> <p>Adds (e)(3) and (4):</p> <p><i>(3) a lawyer may advance or guarantee emergency financial assistance to the client, the repayment of which may not be contingent on the outcome of the matter, provided that no promise or assurance of financial assistance was made to the client by the lawyer, or on the lawyer's behalf, prior to the employment of the lawyer; and</i></p> <p><i>(4) in an action in which an attorney's fee is expressed and payable, in whole or in part, as a percentage of the recovery in the action, a lawyer may pay, from his own account, court costs and expenses of litigation. The fee paid to the attorney from the proceeds of the action may include an amount equal to such costs and expenses incurred.</i></p> <p>(f)(1) Changes wording to: <i>the client consents after consultation or the lawyer is appointed pursuant to an insurance contract;</i></p> <p>(g) Changes “gives informed consent” to “consents after consultation;” Deletes “in a writing signed by the client;” Changes “The lawyer’s disclosure shall include” to “including” and combines last two sentences;</p> <p>Combines (h), (h)(1) and (h)(2) into one paragraph (h), changing some wording slightly: Changes “unless the client...or” in (h)(1) to “unless permitted by law and the client is independently represented in making the agreement;” Deletes “or potential claim” in (h)(2); Changes everything after “or former client” to: “without first advising that person in writing that independent representation is appropriate in connection therewith.”</p> <p>Adds new (i): <i>A lawyer related to another lawyer as parent, child, sibling, or spouse shall not represent a client in a representation directly adverse to a</i></p>

	<p><i>person who the lawyer knows is represented by the other lawyer except upon consent by the client after consultation regarding the relationship.</i></p> <p>(j) is equivalent to MR (i), but changes “authorized by law” in (1) to “granted by law;”</p> <p>Adds new (k):</p> <p><i>(k) In no event shall a lawyer represent both parties in a divorce or domestic relations proceeding, or in matters involving custody of children, alimony, or child support, whether or not contested. In an uncontested proceeding of this nature a lawyer may have contact with the nonrepresented party and shall be deemed to have complied with this prohibition if the nonrepresented party knowingly executes a document that is filed in such proceeding acknowledging:</i></p> <p><i>(1) that the lawyer does not and cannot appear to serve as the lawyer for the nonrepresented party;</i></p> <p><i>(2) that the lawyer represents only the client and will use the lawyer best efforts to protect the client's best interests;</i></p> <p><i>(3) that that nonrepresented party has the right to employ counsel of the party's own choosing and has been advised that it may be in the party's best interest to do so; and</i></p> <p><i>(4) that having been advised of the foregoing, the nonrepresented party has requested the lawyer to prepare an answer and waiver under which the cause may be submitted without notice and as may be appropriate.</i></p> <p>(l) is equivalent to MR (j) but elaborates and changes wording:</p> <p><i>(l) A lawyer shall not engage in sexual conduct with a client or representative of a client that exploits or adversely affects the interests of the client or the lawyer-client relationship, including, but not limited to:</i></p> <p><i>(1) requiring or demanding sexual relations with a client or a representative of a client incident to or as a condition of legal representation;</i></p> <p><i>(2) continuing to represent a client if the lawyer's sexual relations with the client or the representative of the client cause the lawyer to render incompetent representation.</i></p> <p>Adds new (m):</p> <p><i>(m) Except for a spousal relationship or a sexual relationship that existed at the commencement of the lawyer-client relationship, sexual relations between the lawyer and the client shall be presumed to be exploitive. This presumption is rebuttable.</i></p> <p>(n) is equivalent to MR (k) but references different paragraphs, including: “paragraphs (a) through (h) and in paragraphs (j) and (k).”</p>
Rule 1.9	<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>
Rule 1.10	<p>(a) Adds reference to Rules 1.8(a) through (k) and 2.2; deletes “unless” and all subsections thereafter</p>

	<p>Adds as (b):</p> <p>When a lawyer becomes associated with a firm, the firm may not knowingly represent a person in the same or a substantially related matter in which that lawyer, or a firm with which the lawyer was associated, had previously represented a client whose interests are materially adverse to that person and about whom the lawyer had acquired information protected by Rules 1.6 and 1.9(b) that is material to the matter.</p> <p>AL Rules (c) is identical to MR (b) AL Rules (d) is identical to MR (c) AL Rules does not adopt MR (d)</p> <p>Comments:</p> <p>First part of first section, "Definition of Firm," is similar to MR Comment [1], but with changes in wording.</p> <p>Replaces section, "Definition of Firm," with:</p> <p>For purposes of the Rules of Professional Conduct, the term "firm" includes lawyers in a private firm, and lawyers employed in the legal department of a corporation or other organization, or in a legal services organization. Whether two or more lawyers constitute a firm within this definition can depend on the specific facts. For example, two practitioners who share office space and occasionally consult or assist each other ordinarily would not be regarded as constituting a firm. However, if they present themselves to the public in a way suggesting that they are a firm or conduct themselves as a firm, they should be regarded as a firm for purposes of the Rules. The terms of any formal agreement between associated lawyers are relevant in determining whether they are a firm, as is the fact that they have mutual access to confidential information concerning the clients they serve. Furthermore, it is relevant in doubtful cases to consider the underlying purpose of the rule that is involved. A group of lawyers could be regarded as a firm for purposes of the rule that the same lawyer should not represent opposing parties in litigation, while it might not be so regarded for purposes of the rule that information acquired by one lawyer is attributed to another.</p> <p>With respect to the law department of an organization, there is ordinarily no question that the members of the department constitute a firm within the meaning of the Rules of Professional Conduct. However, there can be uncertainty as to the identity of the client. For example, it may not be clear whether the law department of a corporation represents a subsidiary or an affiliated corporation, as well as the corporation by which the members of the department are directly employed. A similar question can arise concerning an unincorporated association and its local affiliates.</p> <p>Similar questions can also arise with respect to lawyers in legal aid. Lawyers employed in the same unit of a legal service organization</p>
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constitute a firm, but not necessarily those employed in separate units. As in the case of independent practitioners, whether the lawyers should be treated as associated with each other can depend on the particular rule that is involved, and on the specific facts of the situation.

Where a lawyer has joined a private firm after having represented the government, the situation is governed by Rule 1.11(a) and (b); where a lawyer represents the government after having served private clients, the situation is governed by Rule 1.11(c)(1). The individual lawyer involved is bound by the Rules generally, including Rules 1.6, 1.7, and 1.9.

Different provisions are thus made for movement of a lawyer from one private firm to another and for movement of a lawyer between a private firm and the government. The government is entitled to protection of its client confidences, and therefore to the protections provided in Rules 1.6, 1.9, and 1.11. However, if the more extensive disqualification in Rule 1.10 were applied to former government lawyers, the potential effect on the government would be unduly burdensome. The government deals with all private citizens and organizations, and thus has a much wider circle of adverse legal interests than does any private law firm. In these circumstances, the government's recruitment of lawyers would be seriously impaired if Rule 1.10 were applied to the government. On balance, therefore, the government is better served in the long run by the protections stated in Rule 1.11."

The Section, "Principles of Imputed Disqualification," is almost identical to Comment [2] of the identically titled section in MR, except that AL Rules references different Rules.

Does not adopt Comments [3] through [12].

Adds Section: "Lawyers Moving Between Firms:"

When lawyers have been associated in a firm but then end their association, however, the problem is more complicated. The fiction that the law firm is the same as a single lawyer is no longer wholly realistic. There are several competing considerations. First, the client previously represented must be reasonably assured that the principle of loyalty to the client is not compromised. Second, the rule of disqualification should not be so broadly cast as to preclude other persons from having reasonable choice of legal counsel. Third, the rule of disqualification should not unreasonably hamper lawyers from forming new associations and taking on new clients after having left a previous association. In this connection, it should be recognized that today many lawyers practice in firms, that many to some degree limit their practice to one field or another, and that many move from one association to another several times in their careers. If the concept of imputed disqualification were defined with unqualified rigor, the result would be radical curtailment of the opportunity of lawyers to move

	<p>from one practice setting to another and of the opportunity of clients to change counsel.</p> <p>Reconciliation of these competing principles in the past has been attempted under two rubrics. One approach has been to seek per se rules of disqualification. For example, it has been held that a partner in a law firm is conclusively presumed to have access to all confidences concerning all clients of the firm. Under this analysis, if a lawyer has been a partner in one law firm and then becomes a partner in another law firm, there is a presumption that all confidences known by a partner in the first firm are known to all partners in the second firm. This presumption might properly be applied in some circumstances, especially where the client has been extensively represented, but may be unrealistic where the client was represented only for limited purposes. Furthermore, such a rigid rule exaggerates the difference between a partner and an associate in modern law firms.</p> <p>The other rubric formerly used for dealing with vicarious disqualification is the appearance of impropriety proscribed in Canon 9 of the ABA former Code of Professional Responsibility. This rubric has a twofold problem. First, the appearance of impropriety can be taken to include any new client-lawyer relationship that might make a former client feel anxious. If that meaning were adopted, disqualification would become little more than a question of subjective judgment by the former client.</p> <p>Second, since "impropriety" is undefined, the term "appearance of impropriety" is questionbegging. It therefore has to be recognized that the problem of imputed disqualification cannot be properly resolved either by simple analogy to a lawyer practicing alone or by the very general concept of appearance of impropriety.</p> <p>A rule based on a functional analysis is more appropriate for determining the question of vicarious disqualification. Two functions are involved: preserving confidentiality and avoiding positions adverse to a client.</p> <p>Adds Section: "Confidentiality:"</p> <p>Preserving confidentiality is a question of access to information. Access to information, in turn, is essentially a question of fact in particular circumstances, aided by inferences, deductions or working presumptions that reasonably may be made about the way in which lawyers work together.</p> <p>A lawyer may have general access to files of all clients of a law firm and may regularly participate in discussions of their affairs; it should be inferred that such a lawyer in fact is privy to all information about all the firm's clients. In contrast, another lawyer may have access to the files of only a limited number of clients and participate in discussion of the affairs of no other clients; in the absence of information to the contrary, it should be inferred that such a lawyer in fact is privy to information about the clients actually served but not those of other clients.</p> <p>Application of paragraphs (b) and (c) depends on a situation's particular facts. In any such inquiry, the burden of proof should rest upon the firm whose disqualification is sought.</p>
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	<p>Paragraphs (b) and (c) operate to disqualify the firm only when the lawyer involved has actual knowledge of information protected by Rules 1.6 and 1.9(b). Thus, if a lawyer while with one firm acquired no knowledge of information relating to a particular client of the firm, and that lawyer later joined another firm, neither the lawyer individually nor the second firm is disqualified from representing another client in the same or a related matter even though the interests of the two clients conflict.</p> <p>Independent of the question of disqualification of a firm, a lawyer changing professional association has a continuing duty to preserve confidentiality of information about a client formerly represented. See Rules 1.6 and 1.9.</p> <p>Adds Section: “Adverse Positions:”</p> <p>The second aspect of loyalty to client is the lawyer's obligation to decline subsequent representations involving positions adverse to a former client arising in substantially related matters. This obligation requires abstention from adverse representation by the individual lawyer involved, but does not properly entail abstention of other lawyers through imputed disqualification. Hence, this aspect of the problem is governed by Rule 1.9(a). Thus, if a lawyer left one firm for another, the new affiliation would not preclude the firms involved from continuing to represent clients with adverse interests in the same or related matters, so long as the conditions of paragraphs (b) and (c) concerning confidentiality have been met.</p>
<p>Rule 1.11</p>	<p>(a) Similar to first part of MR (a), (a)(2), and (b) but deletes clause beginning with “who has formerly served;” deletes “otherwise” before “represent;” changes “gives its...representation” to “consents after consultation;” Last part of Alabama (a) is identical to last part of MR (b) beginning with “no lawyer;” (a)(1) and (2) are identical to MR (b)(1) and (2)</p> <p>(b) is equivalent to MR (c) but with changes in wording:</p> <p style="padding-left: 40px;"><i>Except as may otherwise be permitted by law, a lawyer, having information concerning a person, which was acquired when the lawyer was a public officer or employee and which the lawyer knows to be confidential government information, may not represent a private client whose interests are adverse to that person in a matter in which such information could be used to that person's material disadvantage. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is precluded from any participation in the matter and is apportioned no part of the fee therefrom.</i></p> <p>(b) is identical to MR (d) with MR (d)(2) added to the end;</p> <p>(c)(1) is similar to MR (d)(2)(i) but changes “unless the appropriate...or” to “unless under applicable law no one is, or by lawful delegation may be, authorized to act in the lawyer's stead in the matter; or;”</p> <p>(c)(2) is identical to MR (d)(2)(ii);</p> <p>(d)(1) and (2) are identical to MR (e)(1) and (2);</p> <p>Adds (e):</p> <p style="padding-left: 40px;"><i>As used in this rule, the term "confidential government information"</i></p>

	<p><i>means information which has been obtained under governmental authority and which, at the time this rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.</i></p>
Rule 1.12	<p>(a) Replaces “or law clerk...neutral” with “arbitrator, mediator, other third-party neutral, or law clerk to such a person;”</p> <p>(b) Deletes everything after “arbitrator;” In second sentence changes “or other adjudicative officer” to “other adjudicative officer or arbitrator;” changes “lawyer involved” to “attorney involved;”</p> <p>(c)(2) Deletes “parties and any;” changes “enable them” to “enable it.”</p>
Rule 1.13	<p>Same as former MR</p> <p>Does not adopt 2003 Task Force changes</p>
Rule 1.14	<p>(a) Changes “capacity” to “ability”</p>
Rule 1.15	<p>Adds to beginning of Rule:</p> <p>Definitions. <i>As used in this rule, the terms below shall have the following meaning:</i></p> <p><i>"IOLTA account" means a pooled interest- or dividend-bearing trust account benefiting the Alabama Law Foundation or the Alabama Civil Justice Foundation established in an eligible institution for the deposit of nominal or short-term funds of clients or third persons.</i></p> <p><i>"Eligible institution" means any bank or savings and loan association authorized by federal or state laws to do business in Alabama, whose deposits are insured by an agency of the federal government, or any open-end investment company registered with the Securities and Exchange Commission and authorized by federal or state laws to do business in Alabama. Eligible institutions must meet the requirements set out in section (g).</i></p> <p><i>"Interest- or dividend-bearing trust account" means a federally insured checking account or a business checking account with an automated investment feature, such as an overnight sweep and investment in a government money-market fund or daily (overnight) financial-institution repurchase agreement invested solely in or fully collateralized by U.S. Government Securities. A daily financial-institution repurchase agreement may be established only with an eligible institution that is 'well capitalized' or 'adequately capitalized' as those terms are defined by applicable federal statutes and regulations. An open-end money-market fund must hold itself out as a money-market fund as defined by applicable federal statutes and regulations under the Investment Company Act of 1940, and, at the time of the investment, have total assets of at least \$250,000,000. The funds covered by this rule shall be subject to withdrawal upon request and without delay except as permitted by law.</i></p> <p><i>"Allowable reasonable fees" means: ((1) per check charges, (2) per deposit charges, (3) a fee in lieu of minimum balance, (4) Federal deposit insurance fees, (5) sweep fees, and (6) a reasonable IOLTA account administrative fee.</i></p>

	<p><i>"U.S. Government Securities" means U.S. Treasury obligations and obligations issued or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.</i></p> <p>(a) Replaces general articles with "the" in several instances; Adds before "other property:" <i>No funds of a lawyer shall be deposited in such a trust account, except (1) unearned attorney fees that are being held until earned, and (2) funds sufficient to pay bank service charges on that account or to obtain a waiver thereof. Interest or dividends, if any, on funds, less fees charged to the account, other than overdraft and returned item charges, shall belong to the client or third person, except as provided in Rule 1.15(g), and the lawyer shall have no right or claim to the interest.</i></p> <p>(a) Changes "for a period of [five] years" to "for six (6) years;" Adds to end of paragraph: <i>A lawyer shall designate all such trust accounts, whether general or specific, as well as deposit slips and all checks drawn thereon, as either an 'Attorney Trust Account,' an 'Attorney Escrow Account,' or an 'Attorney Fiduciary Account.' A lawyer shall designate all business accounts, as well as other deposit slips and all checks drawn thereon, as a 'Business Account,' a 'Professional Account,' an 'Office Account,' a 'General Account,' a 'Payroll Account,' or a 'Regular Account.' However, nothing in this rule shall prohibit a lawyer from using any additional description or designation for a specific business or trust account, including, for example, fiduciary accounts maintained by the lawyer as executor, guardian, trustee, receiver, or agent or in any other fiduciary capacity.</i></p> <p>Does not adopt MR (b) or (c);</p> <p>(b) is similar to MR (d) but changes wording: Adds "from a source other than the client or the third person" after "has an interest;"</p> <p>(c) is similar to MR (e) but changes "two or more...lawyer)" to "both the lawyer and another person;" changes "until the dispute is resolved" to "until there is an accounting and a severance of their interests;" Replaces last sentence with: "If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved."</p> <p>Adds to end of paragraph: <i>(d) A lawyer shall not make disbursements of a client's funds from separate accounts containing the funds of more than one client unless the client's funds are collected funds; provided, however, that if a lawyer has a reasonable and prudent belief that a deposit of an instrument payable at or through a bank representing the client's funds will be collected promptly, then the lawyer may, at the lawyer's own risk, disburse the client's uncollected funds. If collection does not occur, then the lawyer shall, as soon as practical, but in no event more than five (5) working days after notice of noncollection, replace the funds in the separate account.</i></p> <p><i>(e) A lawyer shall request that the financial institution where the</i></p>
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lawyer maintains a trust account file a report to the Office of General Counsel of the Alabama State Bar in every instance where a properly payable item or order to pay is presented against a lawyer's trust account with insufficient funds to pay the item or order when presented and either (1) the item or payment order is returned because there are insufficient funds in the account to pay the item or order or, (2) if the request is honored by the financial institution and the overdraft created thereby is not paid within three (3) business days of the date the financial institution sends notification of the overdraft to the lawyer. The report of the financial institution shall contain the same information, or a copy of that information, forwarded to the lawyer who presented the item or order.

A lawyer shall enter into an agreement with the financial institution that holds the lawyer's trust account pursuant to which the financial institution agrees to file the report required by this rule. Every lawyer shall have the duty to assure that his or her trust accounts maintained with a financial institution in Alabama are pursuant to such an agreement. This duty belongs to the lawyer and not to the financial institution. The filing of a report with the Office of General Counsel pursuant to this paragraph shall constitute a proper basis for an investigation by the Office of General Counsel of the lawyer who is the subject of the report, pursuant to the Alabama Rules of Disciplinary Procedure. Nothing in this rule shall preclude a financial institution from charging a lawyer or a law firm a fee for producing the report and maintaining the records required by this Rule. Every lawyer and law firm maintaining a trust account in Alabama shall hereby be conclusively deemed to have consented to the reporting and production requirements mandated by this rule and shall hold harmless the financial institution for its compliance with the aforesaid reporting and production requirements. Neither the agreement with the financial institution nor the reporting or production of records by a financial institution made pursuant to this rule shall be deemed to create in the financial institution a duty to exercise a standard of care or a contract with third parties that may sustain a loss as a result of a lawyer's overdrawing a trust account.

A lawyer shall not fail to produce any of the records required to be maintained by these Rules at the request of the Office of General Counsel, the Disciplinary Commission, or the Disciplinary Board. This obligation shall be in addition to, and not in lieu of, any other requirements of the Rules of Professional Conduct or Rules of Disciplinary Procedure for the production of documents and evidence.

(f) A lawyer, except a lawyer not engaged in active practice pursuant to Alabama Code 1975, §§ 34-3-17 and -18, shall maintain a separate account to hold funds of a client or third person. Every lawyer admitted to practice in this State shall annually certify to the Secretary of the Alabama State Bar that all IOLTA eligible funds are held in an

IOLTA Account, or that the lawyer is exempt because the lawyer: does not have an office within the State of Alabama; does not hold funds for clients or third persons; is not engaged in the active practice of law; is a judge, attorney general, public defender, U.S. attorney, district attorney, on duty with the armed services or employed by a local, state or federal government, and is not otherwise engaged in the private practice of law; or is a corporate or other in-house counsel or teacher of law and is not otherwise engaged in the private practice of law. Certification may be made by a firm on behalf of all lawyers in a firm.

(g) Lawyers shall hold in IOLTA accounts all funds of clients or third persons that are nominal in amount or that the lawyer expects to be held for a short period and from which no income could be earned for the client or third person in excess of the costs incurred to secure such income. In no event shall a lawyer receive the interest on an IOLTA account.

In determining whether to deposit funds into an IOLTA account, a lawyer shall consider the following factors: the amount of interest or dividends likely to be earned during the period the funds are expected to be deposited; the estimated cost of establishing and administering a non-IOLTA trust account for the benefit of the client or third person, including the cost of the lawyer's services and the cost of preparing any tax reports required for interest accruing to the benefit of a client or third person; the ability of financial institutions or lawyers or law firms to calculate and pay interest to individual clients or third persons; and any other circumstances that affect the ability of the client or third-person funds to earn income in excess of the costs incurred to secure such funds. A lawyer shall review the IOLTA account at reasonable intervals to determine whether changed circumstances require further action with respect to the funds of any client or third person.

The determination whether the funds of a client or third person can earn income in excess of costs as provided in (g) above shall rest in the sound judgment of the lawyer or law firm, and no lawyer shall be charged with an ethical impropriety or breach of professional conduct based on the good-faith exercise of such judgment.

Offering IOLTA accounts is voluntary for financial institutions. Lawyers may place trust accounts only in eligible institutions that meet the requirements of this rule, including:

Interest Rates: Eligible institutions shall pay on IOLTA accounts the highest interest rate or dividend the financial institution offers to its non-IOLTA customers when the IOLTA account meets or exceeds the same minimum balance and other eligibility requirements, if any.

A financial institution shall pay on IOLTA accounts the highest interest rate or dividend generally available among the following product types or any comparable product type (if the product type is available from the financial institution to its non-IOLTA customers) by either using the identified product type as an IOLTA account or paying

the equivalent interest rate or dividend on the existing IOLTA account in lieu of actually establishing the highest interest rate or dividend product:

1. An interest-bearing checking account such as a negotiable order of withdrawal (NOW) account, or business checking account with interest.

2. A business checking account with an automated investment feature, such as an overnight sweep and investment in repurchase agreements or money-market funds as described in the definitions.

3. A government (such as for municipal deposits) interest-bearing checking account.

4. A checking account paying preferred interest rates, such as money-market or indexed rates.

5. Any other suitable interest- or dividend- bearing deposit account offered by the institution to its non-IOLTA customers.

As an alternative, the financial institution may pay:

6. An amount on funds, net of allowable reasonable fees, which would otherwise qualify for investment options described in (1) through (4) above equal to 55% of the Federal Funds Target Rate as of the first business day of the quarter or other IOLTA remitting period.

The following considerations will apply to determinations of comparability:

1. Accounts that have limited check-writing capability required by law or government regulation may not be considered as comparable to IOLTA in Alabama. Such accounts, however, are distinguished from checking accounts that pay money-market interest rates on account balances without the check-writing limitations. Such accounts are included in the option 4 class identified above. Additionally, rates that are not generally available to other account holders, such as special promotional rates used to attract new customers, are not considered for comparability in Alabama.

2. For the purpose of determining compliance with the above provisions, all participating financial institutions shall report in a form and manner prescribed by the Alabama Law Foundation and Alabama Civil Justice Foundation the highest interest or dividend rate for each of the accounts they offer within the above-listed account types. The foundations will certify participating financial institutions' compliance with this rule on an annual basis.

3. In determining the highest interest rate or dividend generally available from the institution to its non-IOLTA customers, the eligible institution may consider factors, in addition to the IOLTA account balance, customarily considered by the institution when setting interest rates or dividends for its customers, provided that those factors do not discriminate between IOLTA accounts and accounts of non-IOLTA customers and provided further that those factors do not include that the account is an IOLTA account.

Pursuant to a written agreement between the lawyer and the eligible institution, interest on the IOLTA account shall be remitted at least quarterly to the Alabama Law Foundation or the Alabama Civil Justice Foundation, as the lawyer shall designate.

Interest or dividends shall be calculated in accordance with the institution's standard practice for non-IOLTA account customers, less reasonable fees, if any, in connection with the deposited funds.

Allowable reasonable fees, as defined in this rule, are the only service charges or fees permitted to be deducted from interest or dividend earned on IOLTA accounts. Allowable reasonable fees may be deducted from interest or dividends on an IOLTA account only at such rates and under such circumstances as is the eligible institution's customary practice for its non-IOLTA customers. All other fees and charges shall not be assessed against the interest or dividends earned on the IOLTA account, but rather shall be the responsibility of, and may be charged to, the lawyer maintaining the IOLTA account.

Fees or charges in excess of the interest or dividend earned on the account for any month or quarter shall not be taken from interest or dividend earned on other IOLTA accounts or from the principal of the account.

Financial institutions may elect to pay higher rates than required by this rule or to waive any or all fees on IOLTA accounts.

A statement should be transmitted to the Alabama Law Foundation or the Alabama Civil Justice Foundation with each remittance showing the period for which the remittance is made, the name of the lawyer or law firm from whose IOLTA account the remittance is being sent, the IOLTA account number, the rate of interest applied, the gross interest or dividend earned during the period, the amount and description of any service charges or fees assessed during the remittance period, if any, the average account balance for the remittance period, and the net amount of interest or dividend remitted for the period. A copy of the statement shall also be sent to the lawyer.

(h) All interest or dividends transmitted to and received by the Alabama Law Foundation pursuant to Rule 1.15(g) shall be distributed by it for one or more of the following purposes:

- (1) to provide legal aid to the poor;*
- (2) to provide law-student loans;*
- (3) to provide for the administration of justice;*
- (4) to provide law-related educational programs to the public;*
- (5) to help maintain public law libraries; and*
- (6) for such other programs for the benefit of the public as the*

Supreme Court of the State of Alabama specifically approves from time to time.

(i) All interest or dividends transmitted to and received by the Alabama Civil Justice Foundation pursuant to Rule 1.15(g) shall be distributed by it for one or more of the following purposes:

	<p><i>(1) to provide financial assistance to organizations or groups providing aid or assistance to:</i></p> <p><i>(A) underprivileged children;</i></p> <p><i>(B) traumatically injured children or adults;</i></p> <p><i>(C) the needy;</i></p> <p><i>(D) handicapped children or adults; or</i></p> <p><i>(E) drug and alcohol rehabilitation programs;</i></p> <p><i>(2) to be used in such other programs for the benefit of the public as the Supreme Court of the State of Alabama specifically approves from time to time.</i></p> <p><i>(j) A lawyer shall not fail to produce, at the request of the Office of General Counsel, the Disciplinary Commission, or the Disciplinary Board, any of the records required to be maintained by these Rules. This obligation shall be in addition to, and not in lieu of, any other requirements of the Rules of Professional Conduct or the Rules of Disciplinary Procedure for the production of documents and evidence.</i></p>
Rule 1.16	<p>(b) Combines MR (b) and (b)(1); (b)(1) and (2) are identical to MR (b)(2) and (3);</p> <p>(b)(3) is similar to MR (b)(4) but changes “taking action” with “pursuing an objective;” deletes “or with which...agreement;”</p> <p>(b)(4), (5), and (6) is identical to MR (b)(5), (6), and (7);</p> <p>Replaces (c) with:</p> <p><i>(c) When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.</i></p> <p>(d) Deletes “or expense” after “fee” in first sentence.</p>
Rule 1.17	Does not adopt
Rule 1.18	Does not adopt
Rule 2.1	Identical to MR
Rule 2.2	<p><i>(a) A lawyer may act as intermediary between clients if:</i></p> <p><i>(1) the lawyer consults with each client concerning the implications of the common representation, including the advantages and risks involved, and the effect on the attorney-client privileges, and obtains each client's consent to the common representation;</i></p> <p><i>(2) the lawyer reasonably believes that the matter can be resolved on terms compatible with the clients' best interests, that each client will be able to make adequately informed decisions in the matter and that there is little risk of material prejudice to the interests of any of the clients if the contemplated resolution is unsuccessful; and</i></p> <p><i>(3) the lawyer reasonably believes that the common representation can be undertaken impartially and without improper effect on other responsibilities the lawyer has to any of the clients.</i></p> <p><i>(b) While acting as intermediary, the lawyer shall consult with each client concerning the decisions to be made and the considerations relevant in making them, so that each client can make adequately informed decisions.</i></p>

	<i>(c) A lawyer shall withdraw as intermediary if any of the clients so requests, or if any of the conditions stated in paragraph (a) is no longer satisfied. Upon withdrawal, the lawyer shall not continue to represent any of the clients in the matter that was the subject of the intermediation.</i>
Rule 2.3	(a) is similar to first part of MR (a) but changes “provide an evaluation” to “undertake an evaluation;” (a)(1) is identical to the second part of MR (a), starting with “the lawyer reasonably;” Adds (a)(2): <i>the client consents after consultation.</i>
Rule 2.4	Does not adopt
Rule 3.1	Adds (a): <i>In his representation of a client, a lawyer shall not file a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of the lawyer's client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.</i> (b) is identical to second sentence of MR.
Rule 3.2	Same as MR
Rule 3.3	(a)(1) Deletes everything after “to a tribunal;” (a)(2) Replaces with: “fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client; or;” (a)(3) Deletes “the lawyer’s client, or a witness;” deletes everything after “remedial measures;” Does not adopt (b); (b) Almost identical to MR (c), but deletes reference to paragraph (b); Adds (c): <i>A lawyer may refuse to offer evidence that the lawyer reasonably believes is false;</i> (d) Adds “other than a grand jury proceeding” after “ex parte proceeding.”
Rule 3.4	Does not adopt MR (d) or (e); (d) is similar to MR (f); (d)(1) Combines MR (f)(1) and (2); Adds (d)(2) and (3): <i>(2) the person may be required by law to refrain from disclosing the information; or</i> <i>(3) the information pertains to covert law enforcement investigations in process, such as the use of undercover law enforcement agents.</i>
Rule 3.5	(b) Replaces everything after “ex parte” with: with such a person except as permitted by law; or;” (c) is identical to MR (d); Does not adopt MR (c).
Rule 3.6	(a) Deletes “who is participating...of a matter” from first sentence; adds “that a reasonable person would expect to be disseminated by means of public communication if” after “extrajudicial statement;” Deletes “will be disseminated...communication;” deletes “in the matter” at the end of the paragraph; Adds (b):

	<p>(b) A statement referred to in paragraph (a) ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, and the statement relates to:</p> <p>(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;</p> <p>(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;</p> <p>(3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;</p> <p>(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;</p> <p>(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial; or</p> <p>(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.</p> <p>(c) Similar to MR (b) but adds reference to paragraph (b)(1-5), adds “involved in the investigation or litigation of a matter” after “a lawyer” and adds “without elaboration” to end of paragraph;</p> <p>(c)(1) similar to MR (b)(1) but changes wording to: <i>the general nature of the claim or defense</i>;</p> <p>(c)(3) adds “including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law, the identity of the persons involved” to end of paragraph;</p> <p>(c)(7) deletes clause beginning with “in addition;”</p> <p>(c)(8) is almost identical to MR (c) but adds reference to paragraph (b);</p> <p>Does not adopt (d).</p>
Rule 3.7	(a) Replaces “unless” with “except where.
Rule 3.8	<p>(d) Adds “not willfully fail to” before “make timely disclosure;”</p> <p>Does not adopt MR (e), (f), or (g);</p> <p>Adds (e):</p> <p><i>(e) exercise reasonable care to prevent anyone under the control or direct supervision of the prosecutor from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6, and shall not cause or influence anyone to make a statement that the prosecutor would be prohibited from making under Rule 3.6;</i></p> <p><i>and</i></p> <p>Adds (2):</p>

	<p><i>(2) The prosecutor shall represent the government and shall be subject to these Rules as is any other lawyer, except:</i></p> <p><i>(a) notwithstanding Rules 5.3 and 8.4, the prosecutor, through orders, directions, advice and encouragement, may cause other agencies and offices of government, and may cause non-lawyers employed or retained by or associated with the prosecutor, to engage in any action that is not prohibited by law, subject to the special responsibilities of the prosecutor established in (1) above; and</i></p> <p><i>(b) to the extent an action of the government is not prohibited by law but would violate these Rules if done by a lawyer, the prosecutor (1) may have limited participation in the action, as provided in (2)(a) above, but (2) shall not personally act in violation of these Rules.</i></p>
Rule 3.9	Same as MR
New: Rule 3.10	<p style="text-align: center;"><u>Rule 3.10</u></p> <p><i>A lawyer shall not present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.</i></p>
Rule 4.1	Same as MR
Rule 4.2	Same as MR
Rule 4.3	Deletes everything following “correct the misunderstanding.”
Rule 4.4	<p>(b) Deletes clause, “relating...lawyer’s client” and adds instead, “that on its face appears to be subject to the attorney-client privilege or otherwise confidential;” adds “who” before “knows;” adds “and” to end of paragraph and adds two subparagraphs:</p> <p><i>(1) abide by the reasonable instructions of the sender regarding the disposition of the document; or</i></p> <p><i>(2) submit the issue to an appropriate tribunal for a determination of the disposition of the document.</i></p>
Rule 5.1	(a) Deletes clause, “and a lawyer who individually...in a law firm;” deletes “or has comparable managerial authority”
Rule 5.2	Same as MR
Rule 5.3	(a) Deletes clause, “and a lawyer...in a law firm” and adds instead “in a law firm.”
Rule 5.4	<p>(a)(2) Replaces “purchase the practice” with “undertakes to complete unfinished legal business;” deletes “disabled, or disappeared;” changes language after “lawyer may” to: <i>pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer; and;</i></p> <p>Does not adopt (a)(4);</p> <p>(d)(2) Deletes everything following “officer thereof.”</p>
Rule 5.5	<p>Deletes “Multijurisdictional Practice of Law” from title;</p> <p>A(1) is similar to the first part of MR (a) but changes “in violation of” to “where doing so violates;”</p> <p>A(2) is similar to the second part of MR (a) but changes wording to: “assist a person who is not a member of the bar in the performance of activity that</p>

	<p>constitutes the unauthorized practice of law;” Does not adopt MR (b); B is equivalent to MR (c) but changes wording to: <i>B. Subject to the requirements of Rule VII, Rules Governing Admission to the Alabama State Bar (Admission of Foreign Attorneys Pro Hac Vice), a lawyer admitted in another United States jurisdiction but not in the State of Alabama (and not disbarred or suspended from practice in that or any jurisdiction) does not engage in the unauthorized practice of law when the lawyer represents a client on a temporary or incidental basis (as defined below) in the State of Alabama. Services for a client are within the provisions of this subsection if the services:</i></p> <ol style="list-style-type: none"> <i>1. are performed on a temporary basis by a lawyer admitted and in good standing in another United States jurisdiction, including transactional, counseling, or other nonlitigation services that arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice;</i> <i>2. are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding held or to be held in this or in another jurisdiction; or</i> <i>3. are performed by an attorney admitted as an authorized house counsel under Rule IX of the Rules Governing Admission to the Alabama State Bar and who is performing only those services defined in that rule.</i> <p>C. is equivalent to MR (d) but changes wording: <i>C. A lawyer admitted to practice in another jurisdiction but not in the State of Alabama does not engage in the unauthorized practice of law in the State of Alabama when the lawyer renders services in the State of Alabama pursuant to other authority granted by federal law or under the law or a court rule of the State of Alabama.</i></p> <p>Adds Paragraphs D and E: <i>D. Except as authorized by these Rules or other law, a lawyer who is not admitted to practice in the State of Alabama shall not (1) establish an office or other permanent presence in this jurisdiction for the practice of law, or (2) represent or hold out to the public that the lawyer is admitted to practice law in Alabama.</i> <i>E. Practicing law other than in compliance with this rule or Rule VII or Rule VIII of the Rules Governing Admission to the Alabama State Bar, or other rule expressly permitting the practice of law, such as the Rule Governing Legal Internship by Law Students, shall constitute the unauthorized practice of law and shall subject the lawyer to all of the penalties, both civil and criminal, as provided by law.</i></p>
Rule 5.6	<p>(a) changes clause, “partnership...type of agreement” to “partnership or employment agreement;” (b) Changes “client controversy” to “controversy between private parties.”</p>
Rule 5.7	Does not have

Rule 6.1	<p>Deletes “Voluntary” from title; Replaces text with: <i>A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.</i></p>
Rule 6.2	Same as MR
Rule 6.3	Same as MR
Rule 6.4	Same as MR
Rule 6.5	Same as MR
Rule 6.6	<p><i>Adds new Rule:</i></p> <p style="text-align: center;"><u>Rule 6.6</u></p> <p><i>Any inactive member of the Alabama State Bar may render pro bono services by paying the special membership dues and becoming a special member of the Alabama State Bar as prescribed by the Alabama State Bar for the year in which the pro bono services are rendered. The provision of pro bono services by a special member of the Alabama State Bar shall not be deemed the active practice of law or the unauthorized practice of law under Rule 5.5. For purposes of this section, "pro bono services" are defined as legal services provided without fee or remuneration through an approved pro bono provider. An approved pro bono provider for the purposes of this rule is a not-for-profit legal-aid organization, bar, or court sponsoring a pro bono program that is approved by the Alabama State Bar as set forth in this rule. A not-for-profit legal-aid organization, bar, or court seeking approval from the Alabama State Bar for purposes of this rule shall file a petition with the office of General Counsel of the Alabama State Bar certifying that it is a not-for-profit legal-aid organization, bar, or court sponsoring a pro bono program, and specifically stating:</i></p> <ul style="list-style-type: none"> <i>(a) The structure of the organization and whether it accepts funds from clients;</i> <i>(b) The major sources of funds used by the organization;</i> <i>(c) The criteria used to determine potential clients' eligibility for legal services performed by the organization;</i> <i>(d) The types of legal and nonlegal services performed by the organization;</i> <i>(e) The names of all members of the Alabama Bar who are employed by the organization or who regularly perform legal work for the organization; and</i> <i>(f) That the organization has in place professional liability insurance that will cover the attorney providing the pro bono services.</i> <p><i>This rule shall not preclude an approved pro bono provider from recovering court-awarded attorney fees for representation provided by a pro bono attorney or from receiving reimbursement for otherwise recoverable costs incurred in representing a client pro bono.</i></p>
Rule 7.1	Adds “or cause to be made” after “shall not make;”

	<p>(a) is identical to the last part of the last sentence of MR (a); Adds (b): <i>(b) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law;</i> Adds (c): <i>(c) compares the quality of the lawyer's services with the quality of other lawyers' services, except as provided in Rule 7.4; or;</i> Adds (d): <i>(d) communicated the certification of the lawyer by a certifying organization, except as provided in Rule 7.4;</i></p>
Rule 7.2	<p>Adds to beginning of paragraph: <i>A lawyer who advertises concerning legal services shall comply with the following;</i> (a) Deletes reference in first clause to Rule 7.3; Replaces everything following “services though” with: <i>public media, such as a telephone directory, legal directory, newspaper or other periodical, outdoor displays, radio, television, or written communication not involving solicitation as defined in Rule 7.3;</i> Adds (b): <i>(b) A true copy or recording of any such advertisement shall be delivered or mailed to the office of the general counsel of the Alabama State Bar at its then current headquarters within three (3) days after the date on which any such advertisement is first disseminated; the contemplated duration thereof and the identity of the publisher or broadcaster of such advertisement, either within the advertisement or by separate communication accompanying said advertisement, shall be stated. Also, a copy or recording of any such advertisement shall be kept by the lawyer responsible for its content, as provided hereinafter by Rule 7.2(d), for six (6) years after its last dissemination.</i> (c) combines MR (b), (b)(1) and (b)(2) but adds “written” before “communication;” deletes “or qualified” from MR (b)(2); deletes everything after referral service” in MR (b)(2); Does not adopt MR (b)(3) and (4); (d) is similar to MR (c) but deletes “and office address;” deletes “or law firm;” Adds (e) and (f): <i>(e) No communication concerning a lawyer's services shall be published or broadcast, unless it contains the following language, which shall be clearly legible or audible, as the case may be: "No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers."</i> <i>(f) If fees are stated in the advertisement, the lawyer or law firm advertising must perform the advertised services at the advertised fee, and the failure of the lawyer and/or law firm advertising to perform an advertised service at the advertised fee shall be prima facie evidence of misleading advertising and deceptive practices. The lawyer or law firm advertising shall be bound to perform the advertised services for the</i></p>

	<i>advertised fee and expenses for a period of not less than sixty (60) days following the date of the last publication or broadcast.</i>
Rule 7.3	Does not adopt (a); (b) is equivalent to MR (a).
Rule 7.4	Text of rule is similar to MR (a), but adds to end, "A lawyer shall not state or imply that the lawyer is a specialist except as follows;" (a) is identical to MR (b); (b) is almost identical to MR (c) but adds "or" to end; Does not adopt MR (d); Adds (c): <i>(c) a lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization or authority, but only if such certification is granted by an organization previously approved by the Alabama State Bar Board of Legal Certification to grant such certifications. (c) a lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization or authority, but only if such certification is granted by an organization previously approved by the Alabama State Bar Board of Legal Certification to grant such certifications.</i>
Rule 7.5	(a) Deletes "legal services" and adds reference to Rule 7.4 to end to paragraph; (b) Changes "more than one jurisdiction" to "another jurisdiction;" adds "in Alabama" after "may use;" changes "the same name" to "the name;" changes everything after "name" to: <i>it uses in the other jurisdiction, provided the use of that name would comply with these rules. A firm with any lawyers not licensed to practice in Alabama must, if such lawyer's name appears on the firm's letterhead, state that the lawyer is not licensed to practice in Alabama.</i> Adds (c): <i>A lawyer or law firm may indicate on any letterhead or other communication permitted by these rules other jurisdictions in which the lawyer or the members or associates of the law firm are admitted to practice.</i> (c) is similar to MR (c) but deletes "actively and regularly;" Does not adopt MR (d); Adds (d): <i>The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not practicing with the firm.</i>
Rule 7.6	Does not adopt MR Rule 7.6
New Rule 7.6	Adds new Rule 7.6 <u>Rule 7.6: Professional Cards of Nonlawyers</u> <i>A lawyer shall not cause or permit a business card of a nonlawyer which contains the lawyer's or firm's name to contain a false or misleading statement or omission to the effect that the nonlawyer is a lawyer. A business card of a nonlawyer is not false and misleading which clearly identifies the nonlawyer as a "Legal Assistant," provided that the individual is employed in that capacity by a lawyer or law firm, that the lawyer or law firm supervises and is responsible for the law related tasks assigned to and performed by such individual, and that the lawyer or law firm has authorized the use of such</i>

