

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

	<b>KANSAS</b>
	New rules as adopted by Kansas Supreme Court to be effective 7/1/07. Variations from the Model Rules are noted. Rules only; comment comparison not included.
Preamble	[6] Adds to end: "The attributes contained in this paragraph for lawyers' conduct shall be an aspirational goal of all lawyers."
Scope	[20] Deletes language after "enforcement of the Rule."
Rule 1.0	<ul style="list-style-type: none"> <li>• "Confirmed in writing:" changes reference to paragraph (f) instead of (e);</li> <li>• Adds: (c) <i>"Consult" or "Consultation" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question.</i></li> </ul>
Rule 1.1	Same as MR
Rule 1.2	<p>(a) Adds reference to paragraph (e) in first clause and moves to after "objectives of representation; adds "lawful" before "objectives;" deletes sentence beginning with "a lawyer may take such action;"</p> <p>Adds (e):</p> <p style="padding-left: 40px;"><i>(e) 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	Same as MR
Rule 1.4	<p>(a) Combines MR (a)(1) and (4) but with different wording:</p> <p><i>(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.</i></p>
Rule 1.5	<p>(a) Replaces first part of paragraph with: "A lawyer's fee shall be reasonable;"</p> <p>Adds (b) and (c):</p> <p style="padding-left: 40px;"><i>(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 style="padding-left: 40px;"><i>(c) A lawyer's fee shall be reasonable but a court determination that a fee is not reasonable shall not be presumptive evidence of a violation that requires discipline of the attorney.</i></p> <p>(d) is similar to MR (c) but: changes reference to paragraph (f) in first sentence; deletes "signed by the client;" adds "and the" before "litigation and other expenses;" ends sentence after "from the recovery;" changes clause: "and whether such expenses...calculated" to "All such expenses shall be deducted before the contingent fee is calculated;" changes "the remittance to the client" to "share and amount;" adds to end of paragraph: <i>"The statement shall advise the client of the right to have the fee reviewed as provided in subsection (e);"</i></p> <p>Adds (e):</p>

	<p><i>(e) Upon application by the client, all fee contracts shall be subject to review and approval by the appropriate court having jurisdiction of the matter and the court shall have the authority to determine whether the contract is reasonable. If the court finds the contract is not reasonable, it shall set and allow a reasonable fee.</i></p> <p>(f) is the same as MR (d);  (f)(1) deletes “in lieu thereof” from MR (d)(1);  Adds (f)(g):  <i>(3) a contingent fee in any other matter in which such a fee is precluded by statute.</i></p> <p>Adds (g) and (h):  <i>(g) A division of fee, which may include a portion designated for referral of a matter, between or among lawyers who are not in the same firm may be made if the total fee is reasonable and the client is advised of and does not object to the division.</i></p> <p><i>(h) This rule does not prohibit payments to former partners or associates or their estates pursuant to a separation or retirement agreement.</i></p> <p>Does not adopt MR (e).</p>
Rule 1.6	<p>Adds as (b)(1):  (1) To prevent the client from committing a crime; or  (b)(2) is similar to MR (b)(6) but with different wording:  (2) to comply with requirements of law or orders of any tribunal; or  (b)(3) is identical to MR (b)(5)  Does not adopt (b)(1) through (b)(4)  <b>Does not adopt 2003 Task Force changes</b></p>
Rule 1.7	(a)(2): replaces “significant” with “substantial”
Rule 1.8	Same as MR
Rule 1.9	Same as MR
Rule 1.10	<p>Combines (a) and (a)(1), and deletes (a)(2), and paragraphs (i), (ii), and (iii).</p> <p>Comments:  [2] is almost identical to MR, but deletes reference to 1.10(a)(2)  [4] and [5] are identical to MR [5] and [6]  Comments [6] and [7] are identical to MR Comments [11] and [12].  Does not adopt Comments [3], [4], and [7] through [10].</p>
Rule 1.11	<p>(a) First clause is the same as the first clause of MR (a); adds: <i>a lawyer shall not represent a private client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency consents after consultation;</i> Last sentence is the same as the second clause of MR (b);  (a)(1) is similar to MR (b)(1) but deletes “timely” before “screened;”  (a)(2) is the same as MR (b)(2).  (b) is similar to MR (c) but deletes entire sentence beginning with “As used in this Rule;” in last sentence deletes “timely” before “screened.”</p>

	<p>(c) is similar to MR (d) but deletes “currently” and adds “shall not” to end;                  Does not adopt MR (d)(1);                  (c)(2) is similar to MR (d)(2)(i) but replaces everything following “unless” with: <i>under applicable law no one is, or by lawful delegation may be, authorized to act in the lawyer's stead in the matter; or;</i>                  (c)(3) is similar to MR (d)(2)(ii) but replaces “lawyer” with “attorney” throughout;                  (d) is similar to MR (e);                  Adds (e):  <i>(e) As used in this Rule, the term "confidential government information" 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	Same as MR
Rule 1.13	<p>(b): same as former MR                  (c): same as former MR but replaces “may resign in accordance with” with “shall follow”                  Does not have MR (d) and (e)                  (d): same as former MR                  (e): same as MR (g)  <b>Does not adopt 2003 Task Force changes</b></p>
Rule 1.14	Same as MR
Rule 1.15	Same as MR
Rule 1.16	<p>(a) Adds subparagraph (a)(4):  <i>(4) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent.</i>                  (b) Combines MR (b) and (b)(1);                  Does not adopt MR (b)(2);                  (b)(1) is the same as MR (b)(3);                  (b)(2) is equivalent to MR (b)(4) but changes “taking action” to “pursuing;” replaces language after “repugnant or” with: “imprudent;”                  (b)(3) is the same as MR (b)(5);                  (b)(4) is the same as MR (b)(6);                  (b)(6) is the same as MR (b)(7);                  (c) is the same as the last sentence of MR (c);                  (d) Deletes “or incurred.”</p>
Rule 1.17	Identical to MR Rule 1.18
Rule 1.18	Does not have
Rule 2.1	Same as MR
Rule 2.3	<p>Rule 2.2 is equivalent to MR Rule 2.3, but changes wording:                  (a) and (1) combined are the same as MR (a);                  (a)(2) is the same as the last clause of MR (b);                  (b) is the same as MR (c).</p>

Rule 2.4	Rule 2.3 is the same as MR Rule 2.4
Rule 3.1	Same as MR
Rule 3.2	Same as MR
Rule 3.3	Same as MR
Rule 3.4	Same as MR
Rule 3.5	<p>Changes title to: “Advocate: Impartiality and Decorum of the Tribunal”</p> <p><i>A lawyer shall not:</i></p> <p><i>(a) give or lend anything of value to a judge, official, or employee of a tribunal except as permitted by Section D(5) of Canon 4 of the Code of Judicial Conduct as it may, from time to time be adopted in Kansas, nor may a lawyer attempt to improperly influence a judge, official or employee of a tribunal, but a lawyer may make a contribution to the campaign fund of a candidate for judicial office in conformity with Section C(2) and (4) of Canon 5 of the Code of Judicial Conduct;</i></p> <p><i>(b) communicate or cause another to communicate with a member of a jury or the venire from which the jury will be selected about the matters under consideration other than in the course of official proceedings until after the discharge of the jury from further consideration of the case;</i></p> <p><i>(c) communicate or cause another to communicate as to the merits of a cause with a judge or official before whom an adversary proceeding is pending except:</i></p> <p><i>(1) in the course of official proceedings in the cause;</i></p> <p><i>(2) in writing, if the lawyer promptly delivers a copy of the writing to opposing counsel or to the adverse party if unrepresented;</i></p> <p><i>(3) orally upon adequate notice to opposing counsel or the adverse party if unrepresented;</i></p> <p><i>(4) as otherwise authorized by law or court rule;</i></p> <p><i>(d) engage in undignified or discourteous conduct degrading to a tribunal.</i></p>
Rule 3.6	Same as MR
Rule 3.7	Same as MR
Rule 3.8	Does not adopt (g) or (h)
Rule 3.9	Same as MR
Rule 4.1	Same as MR
Rule 4.2	Same as MR Changed “party” to “person”
Rule 4.3	Deletes language after “misunderstanding.”
Rule 4.4	Same as MR
Rule 5.1	Same as MR
Rule 5.2	Same as MR
Rule 5.3	Same as MR
Rule 5.4	<p>Does not adopt MR(a)(2) but replaces with new (a)(2):</p> <p><i>(2) a lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion</i></p>

	<i>of the total compensation which fairly represents the services rendered by the deceased lawyer.</i>
Rule 5.5	<p>Rule equivalent to MR Rule 5.5 but shortened, reorganized, and with different language:  <i>5.5 Law Firms and Associations: Unauthorized Practice of Law</i></p> <p><i>A lawyer shall not:</i>  <i>(a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or</i>  <i>(b) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.</i></p>
Rule 5.6	Same as MR
Rule 5.7	Same as MR
Rule 6.1	<p>Rule is equivalent to MR but shortened and with different wording:  <i>6.1 Public Service: Pro Bono Public Service</i></p> <p><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	(b) Adds “of a lawyer provided by the organization” after “of a client.”
Rule 6.4	Same as MR
Rule 6.5	Does not adopt
Rule 7.1	<p>Text and (a) are the same as MR;          Adds:  <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; or</i>  <i>(c) compares the lawyer's services with other lawyer's services, unless the comparison can be factually substantiated.</i></p>
Rule 7.2	<p>Does not adopt MR (b);          Adds:  <i>(b) A copy or recording of an advertisement or communication shall be kept for two years after its last dissemination along with a record of when and where it was used.</i>  <i>(c) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertisements or communications permitted by this rule and may pay the usual charges of a not-for-profit lawyer referral</i></p>

	<i>service or other legal service organization.</i> (d) is similar to MR (c) but deletes “or law firm.”
Rule 7.3	Same as MR
Rule 7.4	Same as MR
Rule 7.5	(b) Deletes “or other professional designation.”
Rule 7.6	Does not adopt
Rule 8.1	Same as MR
Rule 8.2	Same as MR
Rule 8.3	(a) Replaces language before “shall inform” with: “A lawyer having knowledge of any action, inaction, or conduct which in his or her opinion constitutes misconduct of an attorney under these rules;” (c) Replaces language after “Rule 1.6” with: “In addition, a lawyer is not required to disclose information concerning any such violation which is discovered through participation in a Substance Abuse Committee, Service to the Bar Committee or similar committee sponsored by a state or local bar association, or by participation in a self-help organization such as Alcoholics Anonymous, through which aid is rendered to another lawyer who may be impaired in the practice of law.”
Rule 8.4	(e) Deletes language after “agency or official;” Adds: <i>(g) engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.</i>
Rule 8.5	Does not adopt MR; has instead: <b><i>8.5 Maintaining the Integrity of the Profession: Jurisdiction</i></b>  <i>A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction although engaged in practice elsewhere.</i>

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