

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

	MISSOURI
	New rules as adopted by Alaska Supreme Court to be effective 7/1/07. Variations from the Model Rules are noted. Rules only; comment comparison not included.
Preamble	Same as MR
Scope	[2] Replaces language after “enforcement of the Rule” with “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.”
Rule 1.0	Same as MR
Rule 1.1	Same as MR
Rule 1.2	(a) Replaces language before “shall consult” with “A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to Rule 4-1.2(c), (d) and (e), and;” Deletes sentence, “A lawyer may...representation;” replaces “settle a matter” with “accept an offer of settlement of a matter;” (c) Replaces “the scope” with “the objective;” Adds (e): <i>(e) When a lawyer <u>knows</u> that a client expects assistance not permitted by the Rules of Professional Conduct or other law, the lawyer shall <u>consult</u> with the client regarding the relevant limitations on the lawyer's conduct.</i>
Rule 1.3	Same as MR
Rule 1.4	Does not adopt MR (1) through (4); Adds: <i>(1) keep the client <u>reasonably</u> informed about the status of the matter;</i> <i>(2) promptly comply with <u>reasonable</u> requests for information; and</i> (4) is the same as MR (5).
Rule 1.5	(d)(1) Adds “or dissolution of the marriage” after “of a divorce;” adds “maintenance” before “alimony or support;” (e)(2) Replaces “the arrangement...will receive” with “the association.”
Rule 1.6	(b)(1):deletes “reasonably certain” and adds to end “that is reasonably certain to occur” Does not have MR (b)(2) or (3) (b)(2) – (4): same as MR (b)(4) – (6) Does not adopt 2003 Task Force changes
Rule 1.7	Same as MR
Rule 1.8	(e)(1) Adds “including medical evaluation of a client” after “expenses of litigation.”
Rule 1.9	(b)(2) Adds to end: “unless the former client gives <u>informed consent, confirmed in writing.</u> ”
Rule 1.10	Combines (a) and (a)(1), and deletes (a)(2), and paragraphs (i), (ii), and (iii). Does not adopt Comments.

<p>Rule 1.11</p>	<p>(d)(2)(ii) Replaces language after “as permitted by” with “and subject to the conditions stated in, Rule 4-1.12(b);” Adds: <i>(e) A lawyer who also holds public office, whether full or part-time, shall not engage in activities in which his or her personal or professional interests are or foreseeably could be in conflict with his or her official duties or responsibilities.</i> <i>(1) A lawyer holding public office shall not attempt to influence any agency of any political subdivision of which such lawyer is a public officer, other than as a part of his or her official duties or except as authorized in sections 105.450 to 105.496, RSMo.</i> <i>(2) No lawyer in a firm in which a lawyer holding a public office is associated may undertake or continue representation in a matter in which the lawyer who holds public office would be disqualified, unless the lawyer holding public office is <u>screened</u> in the manner set forth in Rule 4-1.11(a).</i> (f) is the same as MR (e).</p>
<p>Rule 1.12</p>	<p>(c)(1) Adds “timely” before “screened.”</p>
<p>Rule 1.13</p>	<p>(b) and (c): same as former MR Does not have MR (d) and (e) (d) and (e): same as MR (f) and (g) Does not adopt 2003 Task Force changes</p>
<p>Rule 1.14</p>	<p>(c) Changes “Rule 1.6(a)” to “Rule 4-1.6(a)” throughout.</p>
<p>Rule 1.15</p>	<p>(a) Replaces “maintained...is situated” with “designated as a "Client Trust Account" or words of similar import maintained in the state where the lawyer's office is situated;” replaces “kept...a period of” with “maintained for the later of;” Adds: <i>(f) Except as provided in Rule 4-1.15(g), a lawyer or <u>law firm</u> shall establish and maintain one or more interest-bearing insured depository accounts into which shall be deposited all funds of clients or third persons that are nominal in amount or are expected to be held for a short period of time, but only in compliance with the following provisions:</i> <i>(1) no earnings from such account shall be made available to the lawyer or <u>law firm</u>, and the lawyer or law firm shall have no right or claim to such earnings;</i> <i>(2) only funds of clients that are nominal in amount or are expected to be held for a short period of time and on which interest is not paid to the clients may be deposited in such account, taking into consideration the following factors:</i> <i>(i) the amount of interest that the funds would earn during the period they are expected to be deposited;</i> <i>(ii) the cost of establishing and administering the account, including the cost of the lawyer's services and the cost of preparing any tax reports required for interest accruing to a client's benefit; and</i></p>

(iii) *the capability of financial institutions to calculate and pay interest to individual clients;*

(3) *funds deposited in such account shall be available for withdrawal or transfer on demand, subject only to any notice period that the institution is required to observe by law or regulation;*

(4) *the depository institution shall be directed by the lawyer or [law firm](#) establishing such accounts:*

(i) *to remit at least quarter-annually earnings from such account, net of any service charges or fees as computed in accordance with the institution's standard accounting practice, to the Missouri Lawyer Trust Account Foundation, which shall be the sole beneficial owner of the interest or earnings generated by such account; and*

(ii) *to transmit with each remittance of earnings a statement showing the name of the lawyer or [law firm](#) on whose account the remittance is sent and the rate of interest applied, with a copy of such statement to such lawyer or law firm; and*

(5) *the lawyer or [law firm](#) shall review the account at [reasonable](#) intervals to determine if changed circumstances require further action with respect to the funds of any client.*

(g) *Every lawyer shall certify, in connection with this Court's annual enrollment statement and in such form as the clerk of this Court may prescribe, that the lawyer or the law firm with which the lawyer is associated either participates in the program as provided in Rule 4-1.15(f) or is exempt because the:*

(1) *nature of the lawyer or [law firm](#)'s practice is such that the lawyer or law firm does not hold client or third party funds or is not required to maintain a trust account; or*

(2) *lawyer is primarily engaged in the practice of law in another jurisdiction and not regularly engaged in the practice of law in this state;*

(3) *lawyer is associated in a [law firm](#) with at least one lawyer who is admitted to practice in a jurisdiction other than the state of Missouri and the lawyer or law firm maintains a pooled interest-bearing trust account for the deposit of funds of clients or third persons in a financial institution located outside the state of Missouri and the interest, net of any service charges and fees, from the account is being remitted to the client or third person who owns the funds or to a nonprofit organization or government agency pursuant to the laws or [rules](#) governing lawyer conduct of the jurisdiction in which the financial institution is located;*

(4) *lawyer or law firm elects to decline to maintain accounts as described in Rule 4-1.15(f) in accordance with the procedures set forth in Rule 4-1.15(g); or*

(5) *Missouri Lawyer Trust Account Foundation's Board of Directors, on its own motion, has exempted the lawyer or [law firm](#) from participation in the program when service charges on the lawyer or*

	<p><i>law firm's trust account equals or exceeds any interest generated.</i></p> <p><i>(h) A lawyer or law firm may elect to decline to maintain accounts as described in Rule 4-1.15(f) by so notifying the Missouri Lawyer Trust Account Foundation in writing on or before January 31 of any year. A lawyer or law firm that does not so advise the Missouri Lawyer Trust Account Foundation shall be required to maintain such accounts.</i></p> <p><i>(i) For purposes of Rule 4-1.15(f):</i></p> <p><i>(1) "insured depository accounts" shall mean government insured accounts at a regulated financial institution on which withdrawals or transfers can be made on demand, subject only to any notice period that the institution is required to observe by law or regulation.</i></p> <p><i>(2) The Missouri Lawyer Trust Account Foundation is that not-for-profit corporation described in this Court's Order of October 23, 1984.</i></p> <p><i>(j) A lawyer shall securely store a client's file for 10 years after completion or termination of the representation absent other arrangements between the lawyer and client. If the client does not request the file within 10 years after completion or termination of the representation, the file shall be deemed abandoned by the client and may be destroyed.</i></p> <p><i>A lawyer shall not destroy a file pursuant to this Rule 4-1.15(j) if the lawyer knows or reasonably should know that:</i></p> <p><i>(1) a legal malpractice claim is pending related to the representation;</i></p> <p><i>(2) a criminal or other governmental investigation is pending related to the representation;</i></p> <p><i>(3) a complaint is pending under Rule 5 related to the representation;</i></p> <p><i>or</i></p> <p><i>(4) other litigation is pending related to the representation.</i></p> <p><i>Items in the file with intrinsic value shall never be destroyed.</i></p> <p><i>A lawyer destroying a file pursuant to this Rule 4-1.15(j) shall securely store items of intrinsic value or deliver such items to the state unclaimed property agency. The file shall be destroyed in a manner that preserves confidentiality.</i></p> <p><i>A lawyer's obligation to maintain trust account records as required by Rule 4-1.15(a) is not affected by this Rule 4-1.15(j).</i></p>
Rule 1.16	Same as MR
Rule 1.17	<p>(a) Deletes parentheses and adds to end: "as defined by the agreement between the parties to the sale;"</p> <p>(d) is similar to MR (d) but adds "of the practice" after "sale" and adds to end of paragraph: "<i>The purchaser may, however, refuse to undertake the representation unless the client consents to pay the purchaser fees at a rate not exceeding the fees charged by the purchaser for rendering substantially similar services prior to the initiation of the purchase negotiations.</i>"</p>
Rule 1.18	<p>(d)(2) Last clause, starting with "the disqualified lawyer" is similar to MR (d)(2)(i), but without language following "the matter;"</p> <p>Does not adopt (d)(2)(ii).</p>

Rule 2.1	Same as MR
Rule 2.3	(a) and (1) combined are similar to MR (a), but changes “provide” to “undertake” in Missouri Rules (a); Adds (a)(2): “The client consents after consultation;” (b) is the same as MR (c).
Rule 2.4	Same as MR
Rule 3.1	Same as MR
Rule 3.2	Same as MR
Rule 3.3	(c) Changes numbering of referenced paragraph and Rule to: “Rule 4-3.3(a) and (b)” and “Rule 4-1.6.”
Rule 3.4	Same as MR
Rule 3.5	Same as MR
Rule 3.6	(b) Inserts “Rule 4-3.6” before “paragraph (a)” (7) Changes MR clause “(1) through (6)” to “Rule 4-3.6(b)(1) to (b)(6)” (c)&(d): Adds designation “Rule 4-3.6” to “(a)”
Rule 3.7	Same as MR
Rule 3.8	Does not adopt (g) or (h).
Rule 3.9	Replaces “through” with “to” throughout.
Rule 4.1	Same as MR
Rule 4.2	Same as MR
Rule 4.3	Same as MR
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	Does not adopt MR (a)(2) but has instead: <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 of the total compensation that fairly represents the services rendered by the deceased lawyer;</i> (a)(3) is the same as MR (a)(2); (a)(4) is the same as MR (a)(3); (a)(5) is the same as MR (a)(4).
Rule 5.5	(c) Adds “and authorized to practice law” after “admitted;” (c)(3) Adds “and authorized to practice law” after “admitted;” Adds (c)(4): (4) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or (c)(5) is similar to MR (c)(4) but adds reference to paragraph (c)(4); (d) Combines paragraphs (d), (d)(1) and (d)(2) and adds “establish an office or other systematic and continuous presence in this jurisdiction for the practice of law” between “may” and “provide;” Adds (e):

	<i>(e) A lawyer shall not practice law in Missouri if the lawyer is subject to Rule 15 and, because of failure to comply with Rule 15, The Missouri Bar has referred the lawyer's name to the chief disciplinary counsel or the commission on retirement, removal and discipline.</i>
Rule 5.6	Same as MR
Rule 5.7	Same as MR
Rule 6.1	Replaces language 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>
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 7.1	Deletes “or misleading;” Replaces language after “fact of law” with: <i>A communication is misleading if it:</i> <i>(a) omits a fact as a result of which the statement considered as a whole is materially misleading;</i> <i>(b) is likely to create an unjustified expectation about results the lawyer can achieve;</i> <i>(c) proclaims results obtained on behalf of clients, such as the amount of a damage award or the lawyer's record in obtaining favorable verdicts or settlements, without stating that past results afford no guarantee of future results and that every case is different and must be judged on its own merits;</i> <i>(d) states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law;</i> <i>(e) compares the quality of a lawyer's or a law firm's services with other lawyers' services, unless the comparison can be factually substantiated;</i> <i>(f) advertises for a specific type of case concerning which the lawyer has neither experience nor competence;</i> <i>(g) indicates an area of practice in which the lawyer routinely refers matters to other lawyers, without conspicuous identification of such fact;</i> <i>(h) contains any paid testimonial about or endorsement of the lawyer, without conspicuous identification of the fact that payment has been made for the testimonial or endorsement;</i> <i>(i) contains any simulated portrayal of a lawyer, client, victim, scene,</i>

	<p><i>or event without conspicuous identification of the fact that it is a simulation;</i></p> <p><i>(j) provides an office address for an office staffed only part-time or by appointment only, without conspicuous identification of such fact; or</i></p> <p><i>(k) states that legal services are available on a contingent or no-recovery-no-fee basis without stating conspicuously that the client may be responsible for costs or expenses, if that is the case.</i></p>
Rule 7.2	<p>(a) Deletes reference to Rule 7.3 and replaces language after “services through” with: “public media, such as a telephone directory, legal directory, newspaper or other periodical, outdoor advertising, radio, or television, or through direct mail advertising distributed generally to persons not known to need legal services of the kind provided by the lawyer in a particular matter;”</p> <p>Adds:</p> <p><i>(b) A copy or recording of an advertisement or written communication shall be kept for two years after its last dissemination along with a record of when and where it was used. The record shall include the name of at least one lawyer responsible for its content unless the advertisement or written communication itself contains the name of at least one lawyer responsible for its content.</i></p> <p>(c) is similar to MR (b);</p> <p>(c)(1) is similar to MR (b)(1) but adds “written” before “communication;”</p> <p>Replaces (b)(2) through (4) with:</p> <p><i>(2) a lawyer may pay the reasonable cost of advertising, written communication, or other notification required in connection with the sale of a law practice as permitted by Rule 4-1.17; and</i></p> <p><i>(3) a lawyer may pay the usual charges of a qualified lawyer referral service registered under Rule 4-9.1 or other not-for-profit legal services organization.</i></p> <p>Adds:</p> <p><i>(d) A lawyer may not, directly or indirectly, pay all or a part of the cost of an advertisement in the public media unless such advertisement discloses the name and address of the financing lawyer, the relationship between the advertising lawyer and the financing lawyer, and whether the advertising lawyer is likely to refer cases received through the advertisement to the financing lawyer. Similarly, in any communications such as television, radio, or other electronic programs purporting to give the public legal advice or legal information, for which programs the broadcaster receives any remuneration or other consideration, directly or indirectly, from the lawyer who appears on those programs, the lawyer shall conspicuously disclose to the public the fact that the broadcaster has been paid or receives consideration from the lawyer appearing on the program.</i></p> <p><i>(e) A lawyer or law firm shall not advertise the existence of any office other than the principal office unless:</i></p> <p><i>(1) that other office is staffed by a lawyer at least three days a week, or</i></p>

	<p>(2) <i>the advertisement states:</i></p> <ul style="list-style-type: none">(A) <i>the days and times during which a lawyer will be present at that office, or</i>(B) <i>that meetings with lawyers will be by appointment only.</i> <p>(f) <i>Any advertisement or communication made pursuant to this Rule 4-7.2, other than <u>written</u> solicitations governed by the disclosure rules of <u>Rule 4-7.3(b)</u>, shall contain the following conspicuous disclosure:</i> <i>"The choice of a lawyer is an important decision and should not be based solely upon advertisements."</i></p> <p>(g) <i>The disclosures required by Rule 4-7.2(e) and (f) need not be made if the information communicated is limited to the following:</i></p> <ul style="list-style-type: none">(1) <i>the name of the <u>law firm</u> and the names of lawyers in the firm;</i>(2) <i>one or more fields of law in which the lawyer or law firm practices;</i>(3) <i>the date and place of admission to the bar of state and federal courts; and</i>(4) <i>the address, including e-mail and web site address, telephone number, and office hours.</i> <p>Does not adopt MR (c).</p>
Rule 7.3	<p><i>Rule 7.3 Direct Contact with Prospective Clients</i></p> <p><i>This Rule 4-7.3 applies to in-person and <u>written</u> solicitations by a lawyer with persons <u>known</u> to need legal services of the kind provided by the lawyer in a particular matter for the purpose of obtaining professional employment.</i></p> <p>(a) <i>In-person solicitation. A lawyer may not initiate the in-person, telephone, or real time electronic solicitation of legal business under any circumstance, other than with an existing or former client, lawyer, close friend, or relative.</i></p> <p>(b) <i>Written Solicitation. A lawyer may initiate <u>written</u> solicitations to an existing or former client, lawyer, friend, or relative without complying with the requirements of this Rule 4-7.3(b). Written solicitations to others are subject to the following requirements:</i></p> <ul style="list-style-type: none">(1) <i>any written solicitation by mail shall be plainly marked "ADVERTISEMENT" on the face of the envelope and all written solicitations shall be plainly marked "ADVERTISEMENT" at the top of the first page in type at least as large as the largest written type used in the written solicitation;</i>(2) <i>the lawyer shall retain a copy of each such written solicitation for two years. If written identical solicitations are sent to two or more prospective clients, the lawyer may comply with this requirement by retaining a single copy together with a list of the names and addresses of persons to whom the written solicitation was sent;</i>(3) <i>each <u>written</u> solicitation must include the following:</i> <i>"Disregard this solicitation if you have already engaged a lawyer in connection with the legal matter referred to in this solicitation. You may wish to consult your lawyer or another lawyer instead of me (us).</i>

The exact nature of your legal situation will depend on many facts not known to me (us) at this time. You should understand that the advice and information in this solicitation is general and that your own situation may vary. This statement is required by rule of the Supreme Court of Missouri;"

(4) written solicitations mailed to prospective clients shall be sent only by regular United States mail, not registered mail or other forms of restricted or certified delivery;

(5) written solicitations mailed to prospective clients shall not be made to resemble legal pleadings or other legal documents;

(6) any written solicitation prompted by a specific occurrence involving or affecting the intended recipient of the solicitation or family member shall disclose how the lawyer obtained the information prompting the solicitation;

(7) a written solicitation seeking employment by a specific prospective client in a specific matter shall not reveal on the envelope or on the outside of a self-mailing brochure or pamphlet the nature of the client's legal problem;

(8) if a lawyer knows that a lawyer other than the lawyer whose name or signature appears on the solicitation will actually handle the case or matter or that the case or matter will be referred to another lawyer or law firm, any written solicitation concerning a specific matter shall include a statement so advising the potential client; and

(9) a lawyer shall not send a written solicitation regarding a specific matter if the lawyer knows or reasonably should know that the person to whom the solicitation is directed is represented by a lawyer in the matter.

(c) A lawyer shall not send, nor knowingly permit to be sent, on behalf of the lawyer, the lawyer's firm, the lawyer's partner, an associate, or any other lawyer affiliated with the lawyer or the lawyer's firm a written solicitation to any prospective client for the purpose of obtaining professional employment if:

(1) it has been made known to the lawyer that the person does not want to receive such solicitations from the lawyer;

(2) the written solicitation involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence;

(3) the written solicitation contains a false, fraudulent, misleading, or deceptive statement or claim or makes claims as to the comparative quality of legal services, unless the comparison can be factually substantiated, or asserts opinions about the liability of the defendant or offers assurances of client satisfaction;

(4) the written solicitation concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person solicited or a relative of that person if the accident or disaster occurred less than 30 days prior to the solicitation or if the lawyer knows or reasonably should know that the physical, emotional, or mental state of the person solicited makes it unlikely that the person

	<i>would exercise <u>reasonable</u> judgment in employing a lawyer; or (5) the written solicitation vilifies, denounces or disparages any other potential party.</i>
Rule 7.4	First paragraph is similar to MR (a) but adds: “Any such communication shall conform to the requirements of <u>Rule 4-7.1</u> . Except as provided in Rule 4-7.4(a) and (b), a lawyer shall not state or imply that the lawyer is a specialist unless the communication contains a disclaimer that neither the Supreme Court of Missouri nor The Missouri Bar reviews or approves certifying organizations or specialist designations;” Does not adopt (d).
Rule 7.5	Same as MR
Rule 7.6	Same as MR
Rule 8.1	Divides MR (b) into two paragraphs: everything following “in the matter” is paragraph (c).
Rule 8.2	Same as MR
Rule 8.3	Replaces “who knows” with “having knowledge” throughout; (c) Deletes language after “Rule 1.6.”
Rule 8.4	Adds: <i>(g) manifest by words or conduct, in representing a client, bias or prejudice based upon race, sex, religion, national origin, disability, age, or sexual orientation. This Rule 4-8.4(g) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation, or other similar factors, are issues.</i>
Rule 8.5	Deletes subtitles; (b)(2) Deletes language starting with “shall be applied;” Adds to end of (b): <i>A lawyer shall not be subject to discipline if the lawyer’s conduct conforms to the rules of a jurisdiction in which the lawyer <u>reasonably believes</u> the predominant effect of the lawyer’s conduct will occur.</i>

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