

**Comparison of Newly Adopted North Carolina Rules of Professional Conduct
with ABA Model Rules**

	NORTH CAROLINA
Preamble	<p>As approved by the North Carolina Supreme Court to be effective March 1, 2003. Rule 1.13 amended as of 3/2/06. Variations from the Model Rules are noted. Rules only; Comment comparison not included.</p> <p>Inserted three new paragraphs between MR Comments [6] and [7]: [7] A lawyer should render public interest legal service and provide civic leadership. 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, society, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means. [8] The legal profession is a group of people united in a learned calling for the public good. At their best, lawyers assure the availability of legal services to all, regardless of ability to pay, and as leaders of their communities, states, and nation, lawyers use their education and experience to improve society. It is the basic responsibility of each lawyer to provide community service, community leadership, and public interest legal services without fee, or at a substantially reduced fee, in such areas as poverty law, civil rights, public rights law, charitable organization representation, and the administration of justice. [9] The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer. Personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in, or otherwise support, the provision of legal services to the disadvantaged. The provision of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer as well as the profession generally, but the efforts of individual lawyers are often not enough to meet the need. Thus the profession and government instituted additional programs to provide legal services. Accordingly, legal aid offices, lawyer referral services, and other related programs were developed, and programs will be developed by the profession and the government. Every lawyer should support all proper efforts to meet this need for legal services. [15] (MR [12]): left out reference to self-government in the second half of the first sentence and combines first and second sentences: "The legal profession's relative autonomy carries with it a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar."</p>
Scope	[8] (MR [21]): retained reference to Research Notes.
Rule 1.0	<p>"Confidential information": definition included "denotes information described in Rule 1.6." "Informed consent": deleted last phrase ("about the material risks of and reasonably</p>

	available alternatives to the proposed course of conduct") and replaced it with: "appropriate to the circumstances." "Tribunal": "may render a binding judgment..." rather than "... will render..."
Rule 1.1	Replaced first sentence with: "A lawyer shall not handle a legal matter that the lawyer knows or should know he or she is not competent to handle without associating with a lawyer who is competent to handle the matter."
Rule 1.2	(a): created subparagraphs, adding these provisions: (2) A lawyer does not violate this rule by acceding to reasonable requests of opposing counsel which that do not prejudice the rights of his or her a client, or by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process. (3) In the representation of a client, a lawyer may exercise his or her professional judgment to waive or fail to assert a right or position of the client." (c): deleted "and the client gives informed consent."
Rule 1.3	
Rule 1.4	
Rule 1.5	(a): substituted "an illegal or clearly excessive fee" and "a clearly excessive amount for expenses for "an unreasonable fee" and "an unreasonable amount for expenses." (b): begins with "When the lawyer has not regularly represented the client" rather than putting that idea at the end of the first sentence. Deleted the last sentence regarding changes in the basis or rate. (d)(1) and (2): order reversed. In (d)(1), regarding a criminal defendant, added "...; however, a lawyer may charge and collect a contingent fee for representation in a criminal or civil asset forfeiture proceeding if not otherwise prohibited by law." (d)(2), instead of referring to domestic relations matters, has this provision: "a contingent fee in a civil case in which such a fee is prohibited by law." Added new (f): Any lawyer having a dispute with a client regarding a fee for legal services must: (1) make reasonable efforts to advise his or her client of the existence of the North Carolina State Bar's program of fee dispute resolution at least 30 days prior to initiating legal proceedings to collect the disputed fee; and (2) participate in good faith in the fee dispute resolution process if the client submits a proper request.
Rule 1.6	(a): in place of "information related to the representation of a client" uses "information acquired during the professional relationship with a client" (b): has the provisions in a different order, but included MR (b)(1) - (4) with only one variation. In the equivalent of (b)(4), added reference to the Rules of Professional Conduct, as well as law or court order. Also included two other provisions in (b): "to prevent the commission of a crime by the client" and "to comply with the rules of a lawyers' or judges' assistance program approved by the NCSB or the NC Supreme Court." added (c): The duty of confidentiality described in this Rule encompasses information received by a lawyer then acting as an agent of a lawyers' or judges' assistance program approved by the North Carolina State Bar or the North Carolina Supreme Court regarding another lawyer or judge seeking assistance or to whom assistance is being offered. For the purposes of this Rule, "client" refers to lawyers

	seeking assistance from lawyers' or judges' assistance programs approved by the North Carolina State Bar or the North Carolina Supreme Court."
Rule 1.7	
Rule 1.8	(i)(1): included at the end "provided the requirements of Rule 1.8(a) are satisfied." (i)(2): included at the end "except as prohibited by Rule 1.5." Did not adopt (j) on sex with clients but have Rule 1.19 on client-lawyer sexual relationships.
Rule 1.9	
Rule 1.10	(a): include a reference to prohibitions under Rule 6.6, Action as a Public Official. (c): include screening as proposed by E2k but delete in (c)(1) the qualification that the lawyer is to receive no portion of the fee. Include the E2k proposed comments on screening without the qualification regarding the fee. Adds this sentence in [7]: However, Rule 8.4(c) prohibits the screened lawyer from participating in the fee if such participation was impliedly or explicitly offered as an inducement to the lawyer to become associated with the firm.
Rule 1.11	Proposed the version of 1.11 from the August 2001 report to the HOD. references to apportionment of the fee are deleted.
Rule 1.12	Deleted reference to apportionment of the fee in (c)(1).
Rule 1.13	(c): has former MR but adds "reveal such information outside the organization to the extent permitted by Rule 1.6 and may" after "the lawyer may" (e): replaces "either of these paragraphs" with "these Rules"
Rule 1.14	
Rule 1.15	<p>Rule 1.15-1 Definitions</p> <p>For purposes of this Rule 1.15, the following definitions apply:</p> <p>(a) "Bank" denotes a bank, savings and loan association, or credit union chartered under North Carolina or federal law.</p> <p>(b) "Client" denotes a person, firm, or other entity for whom a lawyer performs, or is engaged to perform, any legal services.</p> <p>(c) "Dedicated trust account" denotes a trust account that is maintained for the sole benefit of a single client or with respect to a single transaction or series of integrated transactions.</p> <p>(d) "Entrusted property" denotes trust funds, fiduciary funds and other property belonging to someone other than the lawyer which is in the lawyer's possession or control in connection with the performance of legal services or professional fiduciary services.</p> <p>(e) "Fiduciary account" denotes an account, designated as such, maintained by a lawyer solely for the deposit of fiduciary funds or other entrusted property of a particular person or entity.</p> <p>(f) "Fiduciary funds" denotes funds belonging to someone other than the lawyer that are received by or placed under the control of the lawyer in connection with the performance of professional fiduciary services.</p> <p>(g) "Funds" denotes any form of money, including cash, payment instruments such as checks, money orders, or sales drafts, and receipts from electronic fund transfers.</p> <p>(h) "General trust account" denotes any trust account other than a dedicated trust account.</p> <p>(i) "Instrument" denotes an instrument under the Uniform Commercial Code, a</p>

payment item or advice accepted for credit by a bank, or a requisition or order for the electronic transfer of funds.

(j) "Legal services" denotes services rendered by a lawyer in a client-lawyer relationship.

(k) "Professional fiduciary services" denotes compensated services (other than legal services) rendered by a lawyer as a trustee, guardian, personal representative of an estate, attorney-in-fact, or escrow agent, or in any other fiduciary role customary to the practice of law.

(l) "Trust account" denotes an account, designated as such, maintained by a lawyer for the deposit of trust funds.

(m) "Trust funds" denotes funds belonging to someone other than the lawyer that are received by or placed under the control of the lawyer in connection with the performance of legal services.

Rule 1.15-2 General Rules

(a) Entrusted Property. All entrusted property shall be identified, held, and maintained separate from the property of the lawyer, and shall be deposited, disbursed, and distributed only in accordance with this Rule 1.15.

(b) Deposit of Trust Funds. All trust funds received by or placed under the control of a lawyer shall be promptly deposited in either a general trust account or a dedicated trust account of the lawyer.

(c) Deposit of Fiduciary Funds. All fiduciary funds received by or placed under the control of a lawyer shall be promptly deposited in a fiduciary account or a general trust account of the lawyer.

(d) Safekeeping of Other Entrusted Property. A lawyer may also hold entrusted property other than fiduciary funds (such as securities) in a fiduciary account. All entrusted property received by a lawyer that is not deposited in a trust account or fiduciary account (such as a stock certificate) shall be promptly identified, labeled as property of the person or entity for whom it is to be held, and placed in a safe deposit box or other suitable place of safekeeping. The lawyer shall disclose the location of the property to the client or other person for whom it is held. Any safe deposit box or other place of safekeeping shall be located in this state, unless the lawyer has been otherwise authorized in writing by the client or other person for whom it is held.

(e) Location of Accounts. All trust accounts shall be maintained at a bank in North Carolina or a bank with branch offices in North Carolina except that, with the written consent of the client, a dedicated trust account may be maintained at a bank that does not have offices in North Carolina or at a financial institution other than a bank in or outside of North Carolina. A lawyer may maintain a fiduciary account at any bank or other financial institution in or outside of North Carolina selected by the lawyer in the exercise of the lawyer's fiduciary responsibility.

(f) Segregation of Lawyer's Funds. No funds belonging to a lawyer shall be deposited in a trust account or fiduciary account of the lawyer except:

(1) funds sufficient to open or maintain an account, pay any bank service charges, or pay any tax levied on the account; or

(2) funds belonging in part to a client or other third party and in part currently or conditionally to the lawyer.

- (g) **Mixed Funds Deposited Intact.** When funds belonging to the lawyer are received in combination with funds belonging to the client or other persons, all of the funds shall be deposited intact. The amounts currently or conditionally belonging to the lawyer shall be identified on the deposit slip or other record. After the deposit has been finally credited to the account, the lawyer may withdraw the amounts to which the lawyer is or becomes entitled. If the lawyer's entitlement is disputed, the disputed amounts shall remain in the trust account or fiduciary account until the dispute is resolved.
- (h) **Instruments Payable to Lawyer.** An instrument drawn on a trust account or fiduciary account for the payment of the lawyer's fees or expenses shall be made payable to the lawyer and shall indicate the client balance on which instrument is drawn.
- (i) **No Bearer Instruments.** No instrument shall be drawn on a trust account or fiduciary account made payable to cash or bearer.
- (j) **No Personal Benefit.** A lawyer shall not use or pledge any entrusted property to obtain credit or other personal benefit for the lawyer or any person other than the legal or beneficial owner of that property.
- (k) **Bank Directive.** Every lawyer maintaining a trust account or fiduciary account at a bank shall file with the bank a written directive requiring the bank to report to the executive director of the North Carolina State Bar when an instrument drawn on the account is presented for payment against insufficient funds. No trust account or fiduciary account shall be maintained in a bank that does not agree to make such reports.
- (l) **Notification of Receipt.** A lawyer shall promptly notify his or her client of the receipt of any entrusted property belonging in whole or in part to the client.
- (m) **Delivery of Client Property.** A lawyer shall promptly pay or deliver to the client, or to third persons as directed by the client, any entrusted property belonging to the client and to which the client is currently entitled.
- (n) **Property Received as Security.** Any entrusted property or document of title delivered to a lawyer as security for the payment of a fee or other obligation to the lawyer shall be held in trust in accordance with this Rule 1.15 and shall be clearly identified as property held as security and not as a completed transfer of beneficial ownership to the lawyer. This provision does not apply to property received by a lawyer on account of fees or other amounts owed to the lawyer at the time of receipt; however, such transfers are subject to the rules governing legal fees or business transactions between a lawyer and client.
- (o) **Duty to Report Misappropriation.** A lawyer who discovers or reasonably believes that entrusted property has been misappropriated or misapplied shall promptly inform the North Carolina State Bar.
- (p) **Interest on Deposited Funds.** Except as authorized by Rule 1.15-4, any interest earned on a trust account or fiduciary account, less any amounts deducted for bank service charges and taxes, shall belong to the client or other person or entity entitled to the corresponding principal amount. Under no circumstances shall the lawyer be entitled to any interest earned on funds deposited in a trust account or fiduciary account.
- (q) **Abandoned Property.** If entrusted property is unclaimed, the lawyer shall make

due inquiry of his or her personnel, records and other sources of information in an effort to determine the identity and location of the owner of the property. If that effort is successful, the entrusted property shall be promptly transferred to the person or entity to whom it belongs. If the effort is unsuccessful and the provisions of G.S. 116B-18 are satisfied, the property shall be deemed abandoned, and the lawyer shall comply with the requirements of Chapter 116B of the General Statutes concerning the escheat of abandoned property.

Rule 1.15-3 Records and Accountings

(a) Minimum Records for Accounts at Banks. The minimum records required for general trust accounts, dedicated trust accounts and fiduciary accounts maintained at a bank shall consist of the following:

- (1) all bank receipts or deposit slips listing the source and date of receipt of all funds deposited in the account, and, in the case of a general trust account, also the name of the client or other person to whom the funds belong;
- (2) all canceled checks or other instruments drawn on the account, or printed digital images thereof furnished by the bank, showing the amount, date, and recipient of the disbursement, and, in the case of a general trust account, the client balance against which each instrument is drawn, provided, that:
 - (A) digital images must be legible reproductions of the front and back of the original instruments with no more than six instruments per page and no images smaller than 1-3/16 x 3 inches; and
 - (B) the bank must maintain, for at least six years, the capacity to reproduce electronically additional or enlarged images of the original instruments upon request within a reasonable time;
- (3) all instructions or authorizations to transfer, disburse, or withdraw funds from the trust account;
- (4) all bank statements and other documents received from the bank with respect to the trust account, including, but not limited to notices of return or dishonor of any instrument drawn on the account against insufficient funds;
- (5) in the case of a general trust account, a ledger containing a record of receipts and disbursements for each person or entity from whom and for whom funds are received and showing the current balance of funds held in the trust account for each such person or entity; and
- (6) any other records required by law to be maintained for the trust account.

(b) Minimum Records for Accounts at Other Financial Institutions. The minimum records required for dedicated trust accounts and fiduciary accounts at financial institutions other than a bank shall consist of the following:

- (1) all depository receipts or deposit slips listing the source and date of receipt of all property deposited in the account;
- (2) a copy of all checks or other instruments drawn on the account, or printed digital images thereof furnished by the depository, showing the amount, date, and recipient of the disbursement, provided, that the images satisfy the requirements set forth in Rule 1.15-3(b)(2);
- (3) all instructions or authorizations to transfer, disburse, or withdraw funds from the account;
- (4) all statements and other documents received from the depository with respect to

the account, including, but not limited to notices of return or dishonor of any instrument drawn on the account for insufficient funds; and

(5) any other records required by law to be maintained for the account.

(c) Quarterly Reconciliations of General Trust Accounts. At least quarterly, the individual client balances shown on the ledger of a general trust account must be totaled and reconciled with the current bank balance for the trust account as a whole.

(d) Accountings for Trust Funds. The lawyer shall render to the client a written accounting of the receipts and disbursements of all trust funds (i) upon the complete disbursement of the trust funds, (ii) at such other times as may be reasonably requested by the client, and (iii) at least annually if the funds are retained for a period of more than one year.

(e) Accountings for Fiduciary Property. Inventories and accountings of fiduciary funds and other entrusted property received in connection with professional fiduciary services shall be rendered to judicial officials or other persons as required by law. If an annual or more frequent accounting is not required by law, a written accounting of all transactions concerning the fiduciary funds and other entrusted property shall be rendered to the beneficial owners, or their representatives, at least annually and upon the termination of the lawyer's professional fiduciary services.

(f) Minimum Record Keeping Period. A lawyer shall maintain, in accordance with this Rule 1.15, complete and accurate records of all entrusted property received by the lawyer, which records shall be maintained for a period of at least six (6) years from the last transaction to which the records pertain.

(g) Audit by State Bar. The financial records required by this Rule 1.15 shall be subject to audit for cause and to random audit by the North Carolina State Bar; and such records shall be produced for inspection and copying in North Carolina upon request by the State Bar.

Rule 1.15-4 Interest On Lawyers' Trust Accounts

(a) Pursuant to a plan promulgated by the North Carolina State Bar and approved by the North Carolina Supreme Court, a lawyer may elect to create or maintain an interest-bearing general trust account for those funds of clients which, in the lawyer's good-faith judgment, are nominal in amount or are expected to be held for a short period of time. Funds deposited in a permitted interest-bearing general trust account under the plan must be available for withdrawal upon request and without delay. The account shall be maintained in a bank. The North Carolina State Bar shall furnish to each lawyer or firm that elects to participate in the Interest on Lawyers' Trust Account (IOLTA) plan, a suitable plaque or scroll indicating participation in the program, which plaque or scroll shall be exhibited in the office of the participating lawyer or firm.

(b) Lawyers or law firms electing to deposit client funds in a general trust account under the plan shall direct the depository institution:

(1) to remit interest or dividends, as the case may be (less any deduction for bank service charges, fees of the depository institution, and taxes collected with respect to the deposited funds) at least quarterly to the North Carolina State Bar;

(2) to transmit with each remittance to the North Carolina State Bar a statement showing the name of the lawyer or law firm maintaining the account with respect to

	<p>which the remittance is sent and the rate of interest applied in computing the remittance; and</p> <p>(3) to transmit to the depository lawyer or law firm at the same time a report showing the amount remitted to the North Carolina State Bar and the rate of interest applied in computing the remittance.</p> <p>(c) The North Carolina State Bar shall periodically deliver to each nonparticipating lawyer a form whereby the lawyer may elect not to participate in the IOLTA plan. If a lawyer does not so elect within the time provided, the lawyer shall be deemed to have opted to participate in the plan and shall provide to the North Carolina State Bar such information as is required to participate in IOLTA.</p> <p>(d) A lawyer or law firm participating in the IOLTA plan may terminate participation at any time by notifying the North Carolina State Bar or the IOLTA Board of Trustees. Participation will be terminated as soon as practicable after receipt of written notification from a participating lawyer or firm.</p>
Rule 1.16	<p>(b), add two additional provisions: "(2) the client knowingly and freely assents to the termination of the representation and (8) the client insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law"</p>
Rule 1.17	<p>adds the sale of an area of practice in the text</p> <p>some differences in the detail; in (c), written notice does not have to be given by the seller; (c)(1): notice includes the identity of the purchaser; (c)(3): only 30 days notice.</p> <p>inserts as (d): "If the seller or the purchaser identifies a conflict of interest that prohibits the purchaser from representing the client, the seller's notice to the client shall advise the client to retain substitute counsel."</p> <p>adds at the end of (e), which is the notice paragraph at the end of MR (c): "In the event the court fails to grant a substitution of counsel in a matter, that matter shall not be included in the sale and the sale otherwise shall be unaffected."</p> <p>adds new (g): " The seller and purchaser may agree that the purchaser does not have to pay the entire sales price for the seller's law practice in one lump sum. The seller and purchaser may enter into reasonable arrangements to finance the purchaser's acquisition of the seller's law practice without violating Rules 1.5(e) and 5.4(a). The seller, however, shall have no say regarding the purchaser's conduct of the law practice."</p>
Rule 1.18	<p>proposed rule from E2k draft of November 2000 without the limitation of apportionment of fees.</p> <p>(d) Representation is permissible if both the affected client and the prospective client have given informed consent, confirmed in writing, or:</p> <p>(1) the disqualified lawyer is timely screened from any participation in the matter; and</p> <p>(2) written notice is promptly given to the prospective client.</p>
Rule 1.19	<p>Rule 1.19 Sexual Relations with Clients Prohibited</p> <p>(a) A lawyer shall not have sexual relations with a current client of the lawyer.</p> <p>(b) Paragraph (a) shall not apply if a consensual sexual relationship existed between the lawyer and the client before the legal representation commenced.</p> <p>(c) A lawyer shall not require or demand sexual relations with a client incident to or as a condition of any professional representation.</p>

	<p>(d) For purposes of this rule, "sexual relations" means:</p> <p>(1) Sexual intercourse; or</p> <p>(2) Any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the lawyer for the purpose of arousing or gratifying the sexual desire of either party.</p> <p>(e) For purposes of this rule, "lawyer" means any lawyer who assists in the representation of the client but does not include other lawyers in a firm who provide no such assistance.</p>
Rule 2.1	
Rule 2.2	
Rule 2.3	kept the old MR language
Rule 2.4	
Rule 3.1	
Rule 3.2	
Rule 3.3	(a): did not delete "material"
Rule 3.4	<p>(b): adds "counsel or assist a witness to hide or leave the jurisdiction for the purpose of being unavailable as a witness"</p> <p>(c): adds "or advise a client to disobey"; (c) is worded differently but same idea of testing the validity of an obligation</p> <p>(e): adds "ask an irrelevant question that is intended to degrade a witness"</p>
Rule 3.5	<p>did not change the text of their previous rule, which is more detailed than MR, other than to add as new (a)(5), the new (c) of the MR.</p> <p>the differences in their rule are: in place of MR (b), they have (a)(2) and (3), which state: "(2) communicate ex parte with a juror or prospective juror except as permitted by law; (3) communicate with a judge or other official except: (A) in the course of official proceedings; (B) in writing, if a copy of the writing is furnished simultaneously to the opposing party; (C) orally, upon adequate notice to opposing party; or (D) as otherwise permitted by law."</p> <p>(a)(4) is similar to MR (d) and adds at the end: "including: (A) failing to comply with known local customs of courtesy or practice of the bar or a particular tribunal without giving opposing counsel timely notice of the intent not to comply; (B) engaging in undignified or discourteous conduct that is degrading to a tribunal; or (C) intentionally or habitually violating any established rule of procedure or evidence:"</p> <p>also adds these provisions:</p> <p>(b): "All restrictions imposed by this rule also apply to communications with, or investigations of, members of the family of a juror or a prospective juror."</p> <p>(c): "A lawyer shall reveal promptly to the court improper conduct by a juror or a prospective juror, or by another toward a juror, a prospective juror or a member of a juror or a prospective juror's family."</p>
Rule 3.6	adds (e): "The foregoing provisions of Rule 3.6 do not preclude a lawyer from replying to charges of misconduct publicly made against the lawyer or from participating in the proceedings of legislative, administrative, or other investigative bodies."

Rule 3.7	
Rule 3.8	add to (e) at the end: "or participate in the application for the issuance of a search warrant to a lawyer for the seizure of information of a past or present client in connection with an investigation of someone other than the lawyer, unless...."
Rule 3.9	Do not have Rule 3.9.
Rule 4.1	do not have 4.1(b).
Rule 4.2	(a), add at the end: "It is not a violation of this rule for a lawyer to encourage his or her client to discuss the subject of the representation with the opposing party in a good-faith attempt to resolve the controversy." (b): b) Notwithstanding section (a) above, in representing a client who has a dispute with a government agency or body, a lawyer may communicate about the subject of the representation with the elected officials who have authority over such government agency or body even if the lawyer knows that the government agency or body is represented by another lawyer in the matter, but such communications may only occur under the following circumstances: (1) in writing, if a copy of the writing is promptly delivered to opposing counsel; (2) orally, upon adequate notice to opposing counsel; or (3) in the course of official proceedings.
Rule 4.3	divides the rule into two paragraphs. The introduction is the same as the first sentence of the MR. (a) is like the last sentence of the MR but worded differently: "[The lawyer shall not...]give legal advice to the person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such person are or have a reasonable possibility of being in conflict with the interests of the client." (b) is the same as the second sentence of the MR.
Rule 4.4	(b): uses the term "writing" rather than "document."; did not add "relating to the representation of the lawyer's client" after "document."
Rule 5.1	adds "or the organization" wherever "firm" is mentioned in text and comments. adds at the end of (c)(2): "..to avoid the consequences."
Rule 5.2	
Rule 5.3	same changes to text at 5.1.
Rule 5.4	adds an additional provision as (a)(3): (3) a lawyer who undertakes to complete unfinished legal business of a deceased lawyer or a disbarred lawyer may pay to the estate of the deceased lawyer or to the disbarred lawyer that portion of the total compensation that fairly represents the services rendered by the deceased lawyer or the disbarred lawyer; (d): does not include (d)(2).
Rule 5.5	new rule, adopted March 2003, is different from new model rule. did not change title (a) A lawyer shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction. (b) A lawyer who is not admitted to practice in this jurisdiction shall not: (1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or (2) hold out to the public or otherwise represent that the lawyer is admitted to

	<p>practice law in this jurisdiction.</p> <p>(c) A lawyer admitted to practice in another jurisdiction, but not in this jurisdiction, does not engage in the unauthorized practice of law in this jurisdiction if the lawyer's conduct is in accordance with these Rules and:</p> <p>(1) the lawyer is authorized by law or order to appear before a tribunal or administrative agency in this jurisdiction or is preparing for a potential proceeding or hearing in which the lawyer reasonably expects to be so authorized; or</p> <p>(2) other than engaging in conduct governed by paragraph (1):</p> <p>(A) the lawyer provides legal services to the lawyer's employer or its organizational affiliates and the services are not services for which pro hac vice admission is required; a lawyer acting pursuant to this paragraph is not subject to the prohibition in Paragraph (b)(1);</p> <p>(B) the lawyer acts with respect to a matter that arises out of or is otherwise reasonably related to the lawyer's representation of a client in a jurisdiction in which the lawyer is admitted to practice;</p> <p>(C) the lawyer acts with respect to a matter that is in or is reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's representation of a client in a jurisdiction in which the lawyer is admitted to practice and are not services for which pro hac vice admission is required;</p> <p>(D) the lawyer is associated in the matter with a lawyer admitted to practice in this jurisdiction who actively participates in the representation; or</p> <p>(E) the lawyer is providing services limited to federal law, international law, the law of a foreign jurisdiction or the law of the jurisdiction in which the lawyer is admitted to practice.</p> <p>(d) A lawyer shall not assist a another person in the unauthorized practice of law.</p> <p>(e) A lawyer or law firm shall not employ a disbarred or suspended lawyer as a law clerk or legal assistant if that individual was associated with such lawyer or law firm at any time on or after the date of the acts which resulted in disbarment or suspension through and including the effective date of disbarment or suspension.</p> <p>(f) A lawyer or law firm employing a disbarred or suspended lawyer as a law clerk or legal assistant shall not represent any client represented by the disbarred or suspended lawyer or by any lawyer with whom the disbarred or suspended lawyer practiced during the period on or after the date of the acts which resulted in disbarment or suspension through and including the effective date of disbarment or suspension.</p>
Rule 5.6	(b): adds at the end: "...between private parties."
Rule 5.7	did not previously have this rule; essentially have proposed the rule without the changes added by E2k (which were not extensive.)
Rule 6.1	do not have this rule
Rule 6.2	do not have this rule
Rule 6.3	
Rule 6.4	
Rule 6.5	

<p>Rule 6.6</p>	<p>have a rule titled "Action as a Public Official" A lawyer who holds public office shall not: (a) use his or her public position to obtain, or attempt to obtain, a special advantage in legislative matters for himself or herself or for a client under circumstances where the lawyer knows, or it is obvious, that such action is not in the public interest; (b) use his or her public position to influence, or attempt to influence, a tribunal to act in favor of himself or herself or his or her client; or (c) accept anything of value from any person when the lawyer knows or it is obvious that the offer is for the purpose of influencing the lawyer's action as a public official.</p>
<p>Rule 7.1</p>	<p>(a): same as former MR first paragraph (a)(1) – (3): same as former MR (a) – (c) Adds (b) A communication by a lawyer that contains a dramatization depicting a fictional situation is misleading unless it complies with paragraph (a) above and contains a conspicuous written or oral statement, at the beginning and the end of the communication, explaining that the communication contains a dramatization and does not depict actual events or real persons.</p>
<p>Rule 7.2</p>	<p>(b)(2) pay the usual charges of a not-for-profit lawyer referral service that complies with Rule 7.2(d), or a prepaid or group legal services plan that complies with Rule 7.3(d); and Did not adopt MR (b)(4) (c): adds “other than that of a lawyer referral service as described in paragraph (d)” after “rule” Adds (d) A lawyer may participate in a lawyer referral service subject to the following conditions: (1) the lawyer is professionally responsible for its operation including the use of a false, deceptive, or misleading name by the referral service; (2) the referral service is not operated for a profit; (3) the lawyer may pay to the lawyer referral service only a reasonable sum which represents a proportionate share of the referral service's administrative and advertising costs; (4) the lawyer does not directly or indirectly receive anything of value other than legal fees earned from representation of clients referred by the service; (5) employees of the referral service do not initiate contact with prospective clients and do not engage in live telephone or in-person solicitation of clients; (6) the referral service does not collect any sums from clients or potential clients for use of the service; and (7) all advertisements by the lawyer referral service shall: (A) state that a list of all participating lawyers will be mailed free of charge to members of the public upon request and state where such information may be obtained; and (B) explain the method by which the needs of the prospective client are matched with the qualifications of the recommended lawyer.</p>
<p>Rule 7.3</p>	<p>Replaces “prospective” with “potential” throughout rule</p>

	<p>(b)(2): adds “compulsion, intimidation, or threats” to end</p> <p>(c) Targeted Communications. Unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2), every written, recorded, or electronic communication from a lawyer soliciting professional employment from a potential client known to be in need of legal services in a particular matter shall include the statement, in capital letters, "THIS IS AN ADVERTISEMENT FOR LEGAL SERVICES" (the advertising notice) subject to the following requirements:</p> <p>(1) Written Communications. Written communications shall be mailed in an envelope. The advertising notice shall be printed on the front of the envelope, in font that is as large as any other printing on the envelope. The front of the envelope shall contain no printing other than the name of the lawyer or law firm and return address, the name and address of the recipient, and the advertising notice. The advertising notice shall also be printed at the beginning of the body of the letter in font as large or larger than the lawyer’s or law firm’s name in the letterhead or masthead.</p> <p>(2) Electronic Communications. The advertising notice shall appear in the "in reference" block of the address section of the communication. No other statement shall appear in this block. The advertising notice shall also appear, at the beginning and ending of the electronic communication, in a font as large or larger than the lawyer’s or law firm’s name in any masthead on the communication.</p> <p>(3) Recorded Communications. The advertising notice shall be clearly articulated at the beginning and ending of the recorded communication.</p> <p>(d) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a prepaid or group legal service plan subject to the following:</p> <p>(1) Definition. A prepaid legal services plan or a group legal services plan ("a plan") is any arrangement by which a person, firm, or corporation, not otherwise authorized to engage in the practice of law, in exchange for any valuable consideration, offers to provide or arranges the provision of legal services that are paid for in advance of the need for the service ("covered services"). In addition to covered services, a plan may provide specified legal services at fees that are less than what a non-member of the plan would normally pay. The legal services offered by a plan must be provided by a licensed lawyer who is not an employee, director or owner of the plan. A plan does not include the sale of an identified, limited legal service, such as drafting a will, for a fixed, one-time fee.</p> <p>(2) Conditions for Participation.</p> <p>(A) The plan must be operated by an organization that is not owned or directed by the lawyer;</p> <p>(B) The plan must be registered with the North Carolina State Bar and comply with all applicable rules regarding such plans;</p> <p>(C) The lawyer must notify the State Bar in writing before participating in a plan and must notify the State Bar no later than 30 days after the lawyer discontinues participation in the plan;</p> <p>(D) After reasonable investigation, the lawyer must have a good faith belief that the plan is being operated in compliance with the Revised Rules of Professional Conduct and other pertinent rules of the State Bar;</p>
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	<p>(E) All advertisements by the plan representing that it is registered with the State Bar shall also explain that registration does not constitute approval by the State Bar; and</p> <p>(F) Notwithstanding the prohibitions in paragraph (a), the plan may use in-person or telephone contact to solicit memberships or subscriptions provided:</p> <p>(i) The solicited person is not known to need legal services in a particular matter covered by the plan; and</p> <p>(ii) The contact does not involve coercion, duress, or harassment and the communication with the solicited person is not false, deceptive or misleading.</p> <p>Adds (e) For purposes of this rule, a potential client is a person with whom a lawyer would like to form a client-lawyer relationship.</p>
Rule 7.4	<p>Did not adopt MR (b) and (c)</p> <p>(b): same as MR (d) but replaces “particular field of law” with “field of practice”</p> <p>(b)(1) the certification was granted by the North Carolina State Bar;</p> <p>(b)(2) the certification was granted by an organization that is accredited by the North Carolina State Bar; or</p> <p>(b)(3) the certification was granted by an organization that is accredited by the American Bar Association under procedures and criteria endorsed by the North Carolina State Bar; and</p> <p>(b)(4): same as MR (d)(2)</p>
Rule 7.5	<p>(a): replaces “otherwise” with “false or misleading,” adds “Every trade name used by a law firm shall be registered with the North Carolina State Bar for a determination of whether the name is misleading.” to end</p> <p>Adds (c) A law firm maintaining offices only in North Carolina may not list any person not licensed to practice law in North Carolina as a lawyer affiliated with the firm unless the listing properly identifies the jurisdiction in which the lawyer is licensed and states that the lawyer is not licensed in North Carolina.</p> <p>(d): same as MR (c) but adds “whether or not the lawyer is precluded from practicing law” to end</p> <p>(e): same as MR (d) but adds “professional” before “organization”</p>
Rule 7.6	did not include this rule
Rule 8.1	
Rule 8.2	
Rule 8.3	<p>(c): do not include the 2nd half of (c) because confidentiality for the assistance program is covered in 1.6.</p> <p>adds as (d):</p> <p>(d) A lawyer who is disciplined in any state or federal court for a violation of the Rules of Professional Conduct in effect in such state or federal court shall inform the secretary of the North Carolina State Bar of such action in writing no later than 30 days after entry of the order of discipline.</p>
Rule 8.4	<p>(e): do not include the 2nd half, which was moved here from the 7s in the MR.</p> <p>adds as (g):</p> <p>(g) intentionally prejudice or damage his or her client during the course of the professional relationship, except as may be required by Rule 3.3.</p>
Rule 8.5	same as new MR. Use "render" rather than "provide."

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