

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

	NORTH DAKOTA
Preamble	<p>New rules as adopted by North Dakota Supreme Court to be effective 8/1/06. Variations from the Model Rules are noted. Rules only; Comment comparison not included.</p>
Scope	<p>[3]: reference is to 2.3</p> <p>[1]: same as MR [14] [2]: combines MR [15] and [16] [3]: same as MR [17] Does not have MR [18] and [19] [4] Violation of a rule should not itself give rise to a cause of action against a lawyer nor should it create a presumption in such a case that a legal duty has been breached. The Rules are designed only to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. Nevertheless, since the rules do establish standards of conduct for lawyers, a lawyer's violation of a rule may be evidence of breach of the applicable standard of conduct. Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that imposition of discipline for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations. [5]: same as MR [21]</p>
Rule 1.0	<p>(a): adds "the person's conduct in the" after "inferred from" (b) "Consent in writing", when used with reference to the consent of a person, denotes consent that is given in writing by the person or oral consent promptly confirmed in writing to the client by the lawyer. Adds: (c) "Consult" or "consultation" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question. (d): same as MR (c) (e) "Fraud" or "fraudulent" denotes conduct having a purpose to deceive and not merely negligent misrepresentation or negligent failure to apprise another of relevant information. Adds: (f) "Jurisdiction" means this state, another state of the United States, the District of Columbia, Puerto Rico, or a territory or possession of the United States. Does not have MR (e) (g): same as MR (f) but adds "the person's conduct in the" after "inferred</p>

	<p>from”</p> <p>Adds: (h) "Legal Assistant" (or paralegal) means a person who assists lawyers in the delivery of legal services, and who through formal education, training, or experience, has knowledge and expertise regarding the legal system and substantive and procedural law which qualifies the person to do work of a legal nature under the direct supervision of a licensed lawyer.</p> <p>Adds: (i) "Matter", for purposes of Rules 1.7 through 1.12, includes any judicial or other proceeding, application, request for a ruling or other determination, contract claim, controversy, investigation, charge, accusation, arrest, or other transaction.</p> <p>(j) – (m): same as MR (g) – (j)</p> <p>(n): same as MR (k) but replaces “procedures within a firm” with “a firm’s procedures”</p> <p>(o) – (q): same as MR (l) – (n)</p>
Rule 1.1	Identical
Rule 1.2	(c) A lawyer may limit the scope of the representation if the client consents after consultation.
Rule 1.3	Identical
Rule 1.4	<p>(a)(1): doesn’t include “informed” or definition language</p> <p>(a)(3): adds to beginning “make reasonable efforts to”</p> <p>(a)(4): adds “the client’s” before “reasonable”</p> <p>(a)(5): replaces “limitation” with “information”</p>
Rule 1.5	<p>(b) When the lawyer has not regularly represented the client, the basis, rate, or amount of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.</p> <p>(c), third sentence: replaces “clearly notify the client of” with “identify;” last sentence: adds “including itemization of expenses” to end</p> <p>(e)(1): adds “by written agreement” after “or each lawyer”</p> <p>(e)(2) after consultation, the client consents in writing to the participation of all the lawyers involved; and</p> <p>Adds: (f) A lawyer may charge for work performed by a legal assistant.</p> <p>Adds: (g) A lawyer may not split legal fees with a legal assistant nor pay a legal assistant for the referral of legal business. A lawyer may compensate a legal assistant based on the quantity and quality of the legal assistant's work and value of that work to a law practice. The legal assistant's compensation may not be contingent, by advance agreement, upon the outcome of a case or upon the profitability of the lawyer's practice.</p>
Rule 1.6	<p>(a) A lawyer shall not reveal information relating to the representation of the client unless the client consents, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is required by paragraph (b) or permitted by paragraph (c). The duty of confidentiality continues after the lawyer-client relationship has terminated.</p> <p>(b) A lawyer is required to reveal information relating to the representation of a client to the extent the lawyer believes reasonably necessary to prevent reasonably certain death or substantial bodily harm;</p>

	(c) and (c)(1) – (5): same as MR (b) and (b)(2) – (6)
Rule 1.7	<p>Conflict of Interest: General Rule</p> <p>(a) A lawyer shall not represent a client if the lawyer's ability to consider, recommend, or carry out a course of action on behalf of the client will be adversely affected by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests.</p> <p>(b) A lawyer shall not represent a client when the lawyer's own interests are likely to adversely affect the representation.</p> <p>(c) A lawyer shall not represent a client if the representation of that client might be adversely affected by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:</p> <p>(1) the lawyer reasonably believes the representation will not be adversely affected; and</p> <p>(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.</p> <p>(d) Except as required or permitted by Rule 1.6, a lawyer shall not use information relating to representation of a client to the disadvantage of a client unless a client who would be disadvantaged consents after consultation.</p>
Rule 1.8	<p>CONFLICT OF INTEREST: PROHIBITED TRANSACTIONS</p> <p>(a) Except for standard commercial transactions involving products or services that the client generally markets to others, a lawyer shall not enter into a business, financial, or property transaction with a client unless:</p> <p>(1) the transaction is fair and reasonable to the client; and</p> <p>(2) after consultation, including advice to seek independent counsel, the client consents to the transaction.</p> <p>(b): changes end after “unless” to “after consultation, including written advice to seek independent counsel, the client consents”</p> <p>(c), changes first sentence: “A lawyer shall not prepare an instrument giving the lawyer or a person related to the lawyer any substantial gift from a client, including a testamentary gift, unless the client is related to the donee.”</p> <p>Adds: (e)(3) a lawyer may guarantee a loan reasonably needed to enable the client to withstand delay in litigation that would otherwise put substantial pressure on the client to settle a case because of financial hardship rather than on the merits, provided that the client remains ultimately liable for repayment of the loan without regard to the outcome of the litigation and, further provided that no promise of financial assistance was made to the client by the lawyer, or by another in the lawyer's behalf, prior to the employment of that lawyer by the client.</p> <p>(f)(1) and (2): same as MR (f)(2) and (3)</p> <p>(f)(3) after consultation, the client consents.</p> <p>(g) A lawyer who represents two or more clients, other than in class actions, shall not participate in making an aggregate settlement of the claims of or against the clients, or an aggregated agreement as to guilty pleas in a criminal case, unless, after consultation, including disclosure of the existence and</p>

	<p>nature of all the claims or pleas involved and of the participation of each person in the settlement, each client consents.</p> <p>(h)(2) settle a claim or potential claim for the lawyer's liability for malpractice with an unrepresented client or former client unless, after consultation, including advice to seek independent counsel, the client or former client consents.</p> <p>(i)(2): adds to end "as permitted by Rule 1.5"</p> <p>Does not have MR (k)</p> <p>Adds: (k) A part-time prosecutor or judge permitted by law to engage in the practice of law in addition to the part-time service shall not, in that practice, represent a client if the representation will or probably will require any pleading or appearance on the client's behalf:</p> <p>(1) if the lawyer is a part-time prosecutor and the client is charged or expects to be charged with a crime, in the jurisdiction in which the lawyer holds the prosecutorial appointment; and</p> <p>(2) if the lawyer is a part-time judge in:</p> <p>(i) the court in which the judge holds appointment; or</p> <p>(ii) any court from which appeals may be brought to the court in which the judge holds appointment.</p>
Rule 1.9	<p>(a), changes end: unless the former client consents in writing</p> <p>(b)(2): ends after "matter;" remaining language is not in subparagraph: "unless the former client consents in writing"</p> <p>(c)(1): adds after "former client" "in the same or a substantially related matter"</p>
Rule 1.10	<p>(a) Lawyers associated in a firm may not knowingly represent a client when any one of them practicing alone would be prohibited from doing so by these rules, except as provided by Rule 1.11, 1.12, 1.18, or 6.5, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm. For purposes of this paragraph, a personal interest disqualification is one created by a lawyer's interests other than those arising from the representation of other clients or the owing of fiduciary duties to some third party.</p> <p>Adds: (b) When a lawyer becomes associated with a firm, and the lawyer is prohibited from representing a client pursuant to Rule 1.9, other lawyers in the firm may not thereafter represent the client unless:</p> <p>(1) any confidential information communicated to the lawyer is unlikely to be significant in the matter;</p> <p>(2) there is no reasonably apparent risk that any use of confidential information of the former client will have a material adverse effect on the client;</p> <p>(3) the lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and</p> <p>(4) written notice is promptly given to all affected clients.</p> <p>(c), compare to MR (b): When a lawyer has terminated an association with a firm, the firm may not thereafter knowingly represent a person when:</p> <p>(1) the person has interests materially adverse to those of a non-governmental client represented by the formerly associated lawyer;</p>

	<p>(2) the matter is the same or is substantially related to that in which the formerly associated lawyer represented the client; and</p> <p>(3) any lawyer remaining in the firm has or has had access to material information protected by Rule 1.6.</p> <p>(d), same as MR (c) but changes end: "... affected client's consent after consultation, so long as the representation does not involve the assertion of a claim by one client against another client represented by the same firm in the same litigation or other proceedings before the tribunal."</p> <p>Does not have MR (d)</p>
Rule 1.11	<p>Title: has former MR title</p> <p>(a)(2), changes end: "... appropriate government agency consents to the representation"</p> <p>(d)(2)(i): omits "obtained in writing" and "informed" before "consent"</p>
Rule 1.12	<p>Title: Former Judge, Arbitrator, Mediator, Adjudicative Officer, Third-Party Neutral, and Law Clerks</p> <p>(a), changes end: "...unless all parties to the proceeding consent in writing after consultation."</p> <p>(b): adds "arbitrator, mediator, or other third-party neutral" after "adjudicative officer" both times it is used in second sentence</p>
Rule 1.13	<p>(d): replaces "constituent" with "consultant"</p> <p>(f): replaces "knows or reasonably should know" with "reasonably believes," adds "or are likely to become" before "adverse"</p> <p>(g): replaces "official" with "constituent," deletes "or by the shareholders"</p>
Rule 1.14	<p>Replaces "diminished" with "limited" throughout rule</p>
Rule 1.15	<p>(a), changes second sentence: Funds shall be deposited in one or more identifiable interest bearing trust accounts in accordance with the provisions of paragraph (f).</p> <p>Fourth sentence: adds "in the manner prescribed in paragraph (h)" after "by the lawyer" and then ends sentence.</p> <p>(b): adds fees associated with credit card payments, or wire transfers related to that account" after "service charges"</p> <p>(d): adds "in connection with a representation" after "receiveing"</p> <p>Adds: (f) Each trust account referred to in paragraph (a) shall be an interest bearing trust account in a bank, savings bank, trust company, saving and loan association, savings association, credit union, or federally regulated investment company selected by a lawyer in the exercise of ordinary prudence authorized by federal or state law to do business in North Dakota and insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or the Federal Savings and Loan Insurance Corporation. Interest bearing trust funds shall be placed in accounts in which withdrawals or transfers can be made by the depositing lawyer or law firm without delay, subject only to any notice period which the depository institution is required to reserve by law or regulation.</p> <p>(1) A lawyer who receives funds of clients or third persons shall maintain a pooled interest bearing trust account for deposit of all such funds received that are nominal in amount or expected to be held for a short period of time. The</p>

	<p>interest accruing on this account, net of any transaction costs, shall be paid to and administered by the North Dakota Bar Foundation in accordance with Administrative Rule 24 of the Supreme Court of North Dakota. The North Dakota Bar Foundation holds the entire beneficial interest in all interest monies accruing on this account.</p> <p>(2) All funds of a client or third person shall be deposited in the account specified in paragraph (f)(1) unless they are deposited in:</p> <p>(i) a separate interest bearing trust account for the particular client or third person on which the interest, net of any transaction costs, will be paid to the client or third person; or</p> <p>(ii) a pooled interest bearing trust account with subaccounting which will provide for computation of interest earned by each client's or third person's funds and the payment thereof, net of any transaction costs, to the client or third person.</p> <p>(3) In determining whether to use the account specified in paragraph (f)(1) or an account specified in paragraph (f)(2), a lawyer should take into consideration the following factors when deciding whether the funds to be invested may be utilized to provide a positive net return to the client or third person:</p> <p>(i) the amount of interest which the funds would earn during the period they are expected to be deposited;</p> <p>(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 or third person's benefit; and</p> <p>(iii) the capability of financial institutions described in paragraph (f) to calculate and pay interest on individual accounts or subaccounts.</p> <p>(4) As to accounts under paragraph (f)(1), a lawyer or law firm shall direct the depository institution:</p> <p>(i) to remit interest or dividends, net of any service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to the North Dakota Bar Foundation (the foundation); and</p> <p>(ii) to transmit with each remittance to the foundation a statement showing the name of the lawyer or law firm for whom the remittance is sent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing lawyer or law firm.</p> <p>Adds: (g) Lawyers who are admitted to practice in a jurisdiction other than the state of North Dakota and lawyers who are associated in a law firm with at least one lawyer who is admitted to practice in a jurisdiction other than the state of North Dakota are exempt from the requirements of paragraph (f) if 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 North Dakota 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 non-profit organization or government agency pursuant</p>
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	<p>to the laws or rules governing lawyer conduct of the jurisdiction in which the financial institution is located. This exemption shall not relieve a lawyer from any of the other obligations imposed by this rule.</p> <p>Adds: (h) A lawyer shall maintain or cause to be maintained on a current basis records sufficient to demonstrate compliance with the provisions of this Rule. Such records shall be preserved for at least six years after termination of the representation.</p> <p>Adds: (i) A lawyer shall certify, in connection with the annual renewal of the lawyer's license and in such form as the clerk of the supreme court of North Dakota may prescribe, that the lawyer is complying with the provisions of this Rule.</p>
<p>Rule 1.16</p>	<p>(a): adds "seek to" before "withdraw"</p> <p>(a)(1): adds "the lawyer reasonably believes that" to beginning</p> <p>Adds: (a) (3) the lawyer has offered material evidence in the testimony of the client and has come to know of its falsity and the client has refused to consent to disclosure of its false character to the tribunal; or</p> <p>(a)(4): same as MR (a)(3)</p> <p>(b)(4): replaces "taking action" with "pursuing objectives or means"</p> <p>(c): deletes first sentence</p> <p>Adds: (d) Where the lawyer has sought to withdraw in accordance with paragraph (a)(3) and withdrawal is not permitted, the lawyer may continue the representation without disclosure of the client's false testimony; such continuation alone is not a violation of these Rules.</p> <p>(e): same as MR (d) but replaces "other law" with "Rule 1.19"</p>
<p>Rule 1.17</p>	<p>First paragraph: adds "all or part" after "purchase," deletes "or an area of law practice"</p> <p>(a) The seller ceases to engage in the private practice of law or some particular area of the practice of law within an agreed upon geographic area in which the practice has been conducted;</p> <p>(b) The practice or particular area of practice is sold as an entirety to another lawyer or law firm;</p> <p>(c) Actual written notice is given by certified mail, return receipt requested, to each of the seller's clients regarding</p> <p>Adds: (c)(2) the terms of any proposed change in the fee arrangement authorized by paragraph (d);</p> <p>(c)(3) and (4): same as MR (c)(2) and (3)</p> <p>Paragraph after (c)(4): replaces "If client cannot be given notice" with "If written notice by certified mail is ineffective, the seller should take all reasonable steps to see that notice of the sale is received by the client. If after all reasonable steps have been exhausted, notice has still not been received by the client"</p> <p>(d) The sale may not be financed by increases in fees charged the clients of the practice. Existing agreements between the seller and the client as to fees and the scope of the work must be honored by the purchaser, unless the client consents in writing after consultation.</p> <p>Adds: (e) Any sale of any particular area of practice arising out of the selling</p>

	<p>lawyer's cessation of practice in an area of practice must include all of the selling attorney's files in the area of specialty or practice.</p>
<p>Rule 1.18</p>	<p>Replaces “prospective” with “potential” throughout rule (b): inserts “significantly harmful” after “reveal” (d): replaces “disqualifying information as defined in paragraph (c)” with “significantly harmful information” (d)(1): changes end to “have given consent” (d)(2): changes “disqualifying information” with “significantly harmful information,” adds “and notice is promptly given to the potential client” to end (d)(2)(i) and (ii): does not have</p>
<p>Adds Rule 1.19</p>	<p>Files, Papers, and Property Related to a Representation (a) A lawyer shall not assert a retaining lien against a client's files, papers, or property. (b) The following constitute a client's files, papers (including items only electronically stored), or property: (1) All papers and property provided by the client to the lawyer other than as payment. (2) All pleadings, motions, discovery, memoranda, and other litigation materials which have been executed and served or filed regardless whether the client has paid the lawyer for drafting and serving and/or filing the document(s). (3) All correspondence regardless of whether the client has paid the lawyer for drafting or sending the correspondence. (4) All items of potential evidentiary value regardless of whether the client has reimbursed the lawyer for any costs or expenses which the lawyer has advanced, including depositions, expert opinions and statements, business records, and witness statements. (c) A lawyer may not condition the return of client files, papers, or property on payment of copying costs. Nor may the lawyer condition return of the client files, papers, or property upon payment of the lawyer's fee. (d) Unless copies have earlier been provided to the client by the lawyer, a lawyer who has withdrawn from a representation or has been discharged from a representation may only charge the former client the cost of copying for the client, or electronically retrieving for the client, the client's files, papers, and property when the client has, prior to termination of the lawyer's services, agreed in writing to reimburse the lawyer for copying and retrieval expense. Any such charge must be reasonable in amount. (e) The following, regardless of form, are not client files, papers, or property: (1) Pleadings, discovery, motion papers, memoranda, and correspondence which have been drafted but not filed, sent, or served, unless the client has already paid for the drafting or creating of the item(s). (2) Drafted but unexecuted or undelivered estate plans, title opinions, contracts, documents regarding the formation, operation, dissociation, dissolution, or termination of business or other associations or governing the relationship of those involved in them, or any other unexecuted or undelivered document, unless the client has already paid for the drafting and preparation of</p>

	<p>the item(s).</p> <p>(3) Any lawyer work product not expressly defined as client files, papers, or property by paragraph (b).</p> <p>(f) In connection with the return of any file or paper, including client files or papers, a lawyer may make copies for retention by the lawyer. The client may not be charged for these copies.</p>
Rule 2.1	Identical
Rule 2.2	Same as MR 2.3 except changes end in (b) to “consents after consultation”
Rule 2.3	Same as MR 2.4
Rule 2.4	Numbered as 2.3
Rule 3.1	Adds “or commitment” after “incarceration”
Rule 3.2	Identical
Rule 3.3	<p>(a)(3): adds “unless the evidence was contained in testimony of the lawyer's client. If the evidence was contained in testimony of the lawyer's client, the lawyer shall make reasonable efforts to convince the client to consent to disclosure. If the client refuses to consent to disclosure, the lawyer shall seek to withdraw from the representation without disclosure. If withdrawal is not permitted, the lawyer may continue the representation and such continuation alone is not a violation of these rules. The lawyer may not use or argue the client's false testimony.” after “disclosure to the tribunal.” Does not have last sentence.</p> <p>(b): adds “Subject to paragraph (a)(3)” to beginning</p> <p>(c): ends sentence after “proceeding”</p>
Rule 3.4	(a): does not have second sentence
Rule 3.5	(b): replaces “such a person during a proceeding” with “a judge, impaneled juror, prospective juror or other official concerning a pending or impending proceeding”
Rule 3.6	Identical
Rule 3.7	(b): replaces “Rule 1.7 or Rule 1.9” with “a conflict of interest”
Rule 3.8	(d): replaces “make timely disclosure to the defense of” with “disclose to the defense at the earliest practical time”
Rule 3.9	<p>Changes reference to 3.3(a) through (d)</p> <p>Deletes reference at end to 3.5</p> <p>Adds: A lawyer shall also conform to the provisions of Rule 3.5, except the lawyer may participate in ex parte communications with members of a legislative body regarding legislative matters but not adjudicative matters.</p>
Rule 4.1	In the course of representing a client a lawyer shall not make a statement to a third person of fact or law that the lawyer knows to be false.
Rule 4.2	Identical
Rule 4.3	Identical
Rule 4.4	(b): moved to 4.5(a)
Adds Rule 4.5	<p>Inadvertent Transmission</p> <p>(a): same as MR 4.4(b)</p>

	(b) A lawyer who receives a document under the circumstances creating a duty under this rule does not violate Rule 1.2 or Rule 1.4 by not communicating to or consulting with the client regarding the receipt or the return of the document.
Rule 5.1	(a): deletes “law” before “firm” after “A partner,” replaces “possesses” with “has”
Rule 5.2	Identical
Rule 5.3	<p>(a): replaces “possesses” with “has,” replaces “the person’s” with “the nonlawyer’s”</p> <p>(b): replaces “a” at beginning with “the,” replaces “the person’s” with “the nonlawyer’s”</p> <p>(c): replaces “such a person” with “a nonlawyer,” deletes “if engaged in by a lawyer”</p> <p>(c)(2): replaces “person” with “nonlawyer” throughout rule, deletes “remedial”</p> <p>Adds: (d) In addition to paragraphs (a), (b) and (c), the following apply with respect to a legal assistant employed or retained by or associated with a lawyer:</p> <p>(1) A lawyer may delegate to a legal assistant any task normally performed by the lawyer except those tasks proscribed to one not licensed as a lawyer by statute, court rule, administrative rule or regulation, controlling authority, or these Rules.</p> <p>(2) A lawyer may not delegate to a legal assistant:</p> <p>(i) responsibility for establishing a lawyer-client relationship;</p> <p>(ii) responsibility for establishing the amount of a fee to be charged for a legal service;</p> <p>(iii) responsibility for a legal opinion rendered to a client; or</p> <p>(iv) responsibility for the work product.</p> <p>(3) The lawyer shall make reasonable efforts to ensure that clients, courts, and other lawyers are aware that a legal assistant is not licensed to practice law.</p>
Rule 5.4	(d)(2): replaces “occupies” with “holds”
Rule 5.5	<p>Title: omits “Multijurisdictional Practice of Law”</p> <p>(a): changes end after “in a jurisdiction” to “where doing so violates the regulation of the legal profession in that jurisdiction”</p> <p>(b) A lawyer admitted to practice in another jurisdiction and not in this jurisdiction who performs legal services in this jurisdiction on a temporary basis does not engage in the unauthorized practice of law in this jurisdiction when:</p> <p>(1) the lawyer who is an employee of a client, acts on the client's behalf, or on behalf of the client's commonly owned affiliates, except for work for which pro hac vice admission or registration under Admission to Practice R.3 is required;</p> <p>(2) the lawyer acts with respect to a matter that arises out of the lawyer's representation of a client in a jurisdiction in which the lawyer is admitted to practice, except for work for which pro hac vice admission or registration under Admission to Practice R.3 is required;</p>

	<p>(3) with respect to matters for which registration or pro hac vice admission is available under Admission to Practice R.3, the lawyer is authorized to represent a client or is preparing for a matter in which the lawyer reasonably expects to be so authorized;</p> <p>(4) with respect to matters, transactions or proceedings pending in or substantially related to this jurisdiction and for which pro hac vice admission is not available under Admission to Practice R.3, the lawyer is associated in the matter, transaction or proceeding with a lawyer admitted to practice in this jurisdiction who actively participates in the representation of the client in the matter, transaction or proceeding; or</p> <p>(5) the lawyer performs a service that may be performed by a person without a license to practice law or without other authorization from a federal, state or local governmental body.</p> <p>(c) A lawyer admitted to practice in another jurisdiction but not in this jurisdiction, who establishes an office or whose presence is other than temporary in this jurisdiction does not engage in the unauthorized practice of law in this jurisdiction when:</p> <p>(1) the lawyer who is an employee of a client, acts on the client's behalf, or on behalf of the client's commonly owned affiliates, and the lawyer is eligible for and has complied with the lawyer registration rules under Admission to Practice R.3, or</p> <p>(2) the lawyer renders services in this jurisdiction pursuant to other authority granted by federal law or a law or Court rule of this jurisdiction.</p> <p>(d) A lawyer who is not admitted to practice in this jurisdiction shall not represent or hold out to the public that the lawyer is admitted to practice law in this jurisdiction. A lawyer who practices law in this jurisdiction under paragraph(b) or (c) shall disclose in writing to the client that the lawyer is not licensed in this jurisdiction.</p> <p>(e) A lawyer shall not assist another person in the unauthorized practice of law.</p>
Rule 5.6	(a): replaces "retirement" with "such termination"
Rule 5.7	Identical
Rule 6.1	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, or by financial support for organizations that provide legal services to persons of limited means.
Rule 6.2	Title: Appointment by a Tribunal (c): refers to "lawyer-client" relationship
Rule 6.3	Identical
Rule 6.4	Identical
Rule 6.5	(a)(1): adds cross-reference to 1.9(b) Adds: (c) A client who has been served under the circumstances authorized under paragraph (a) is, for purposes of Rule 1.9, a former client of the lawyer providing the service, but that lawyer's disqualification is not imputed to

	lawyers associated with that lawyer for purposes of Rule 1.10.
Rule 7.1 Marked amendment s affective 10/1/10	<p>Title: Communications Concerning the Services of a Lawyer or Persons Professionally Associated with the Lawyer</p> <p>A lawyer shall not make a false or misleading communication about the lawyer, a person professionally associated with the lawyer, or their services. A communication is false or misleading if it:</p> <p>(a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;</p> <p>(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</p> <p>(c) compares the lawyer's services <u>lawyer</u> with other lawyers' services <u>lawyers</u>, unless the comparison can be factually substantiated; or</p> <p><u>(d) compares the lawyer's services with other lawyers' services based on the lawyer having received an honor or accolade, unless:</u></p> <p><u>(1) the name of the comparing organization is states, and</u></p> <p><u>(2) the basis for the comparison can be substantiated.</u></p>
Rule 7.2	<p>(a) Subject to the requirements of Rule 7.1 and 7.3, a lawyer may market and advertise legal services through media, including published and on-line directories; newspapers, newsletters and other periodicals; outdoor advertising; electronic advertising, including radio, television, video and the Internet; and through text-based communications including written correspondence and e-mail.</p> <p>(b), same as previous MR except: replaces "shall" with "must," adds "For written correspondence and e-mail, a lawyer shall retain for two years from the date of sending a list of addressees. When a lawyer uses recorded voice communications and transmits a communication by telephone call, the lawyer shall retain for two years from the date of the call a record of any telephone number called."</p> <p>(c): replaces "shall" with "must"</p> <p>(d): same as previous MR (c)</p>
Rule 7.3	<p>(a) A lawyer, or the lawyer's representative, shall not by in-person or telephone contact, or other real-time contact, solicit professional employment from a prospective client when a significant motive for the solicitation is the lawyer's pecuniary gain unless the person contacted:</p> <p>(a)(2): deletes "close"</p> <p>Adds: (b)(3) the receipt of the solicitation is uninvited and imposes any involuntary economic cost on the prospective client to respond to the solicitation.</p> <p>Does not have MR (c)</p> <p>(c): same as MR (d)</p>
Rule 7.4	<p>Title: doesn't include "Specialization"</p> <p>First paragraph: same as former MR but changes end to "the lawyer is a</p>

	<p>specialist in a particular field of law except as follows”</p> <p>(c), same as former MR but changes second sentence “The communication need not contain such a statement if the named organization has been accredited by the American Bar Association or the lawyer has successfully completed a certification program sponsored by a state bar association.”</p>
Rule 7.5	<p>Adds: (e) A lawyer may identify legal assistants on the lawyer's letterhead and on business cards identifying the lawyer's firm, provided the legal assistant's status is clearly identified.</p>
Rule 7.6	<p>Did not adopt</p>
Rule 8.1	<p>Identical</p>
Rule 8.2	<p>(a), changes beginning to “A lawyer shall not knowingly, or with reckless disregard as to its truth or falsity, make a false statement ...”</p>
Rule 8.3	<p>(a), changes end to “...shall initiate proceedings under the North Dakota Rules for Lawyer Discipline”</p> <p>(b) A lawyer who knows that a judge has committed a violation of the North Dakota Code of Judicial Conduct that raises a substantial question as to the judge's honesty, trustworthiness, or fitness for judicial office in other respects shall initiate proceedings under the Rules of the North Dakota Judicial Conduct Commission.</p> <p>(c): deletes “otherwise,” changes end to “... participating as a committee member, peer counselor, or program staff in a lawyer assistance program established under Administrative Rule 49”</p>
Rule 8.4	<p>(c): adds to end “that reflects adversely on the lawyer's fitness as a lawyer”</p> <p>(d): same as MR (f) but replaces “rules” with “canons”</p> <p>(f): same as MR (d) but adds to end “including to knowingly manifest through words or conduct in the course of representing a client, bias or prejudice based upon race, sex, religion, national origin, disability, age, or sexual orientation, against parties, witnesses, counsel, or others, except when those words or conduct are legitimate advocacy because race, sex, religion, national origin, disability, age, or sexual orientation is an issue in the proceeding; or”</p> <p>Adds: (g) engage in other conduct that is enumerated in the North Dakota Century Code as a basis for revocation or suspension of a lawyer's certificate of admission.</p>
Rule 8.5	<p>Title: Jurisdiction</p> <p>(a) A lawyer admitted to practice in this jurisdiction is subject to disciplinary action in this jurisdiction even though the conduct of the lawyer giving rise to the discipline may have occurred outside of this jurisdiction and even when that conduct may subject or has subjected the lawyer to discipline by another jurisdiction.</p> <p>(b) Persons not licensed to practice law in this jurisdiction, but eligible to practice elsewhere who actually engage in this jurisdiction in the practice of law, are subject to the disciplinary authority of this jurisdiction.</p>

As of September 10, 2010

regarding variations from the ABA Model Rules should not be construed as representing policy of the American Bar Association. The charts are current as of the date shown on each. A jurisdiction may have amended its rules or proposals since the time its chart was created. If you are aware of any inaccuracies in the charts, please send your corrections or additions and the source of that information to John Holtaway, (312) 988-5298, jholtaway@staff.abanet.org.