

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

	OREGON
	<p>Rules as adopted by the Oregon Supreme Court to be effective 1/1/05 and as amended effective 12/1/06. Variations from the Model Rules are noted. Rules only; Oregon did not adopt the Comments.</p>
Preamble	Did not adopt
Scope	Did not adopt
Rule 1.0	<p>add: "Electronic communication" includes but is not limited to messages sent to newsgroups, listservs and bulletin boards; messages sent via electronic mail; and real time interactive communications such as conversations in internet chat groups and conference areas and video conferencing.</p> <p>(d): "Firm" or "law firm" denotes a lawyer or lawyers, including "Of Counsel" lawyers, in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a private or public legal aid or public defender organization, a legal services organization or the legal department of a corporation or other public or private organization. Any other lawyer, including an office sharer or a lawyer working for or with a firm on a limited basis, is not a member of a firm absent indicia sufficient to establish a de facto law firm among the lawyers involved.</p> <p>add: "Information relating to the representation of a client" denotes both information protected by the attorney-client privilege under applicable law, and other information gained in a current or former professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.</p> <p>Informed consent: add at the end: When informed consent is required by these Rules to be confirmed in writing or to be given in a writing signed by the client, the lawyer shall give and the writing shall reflect a recommendation that the client seek independent legal advice to determine if consent should be given.</p> <p>Knowingly: add at the end of the first sentence: for purposes of determining a lawyer's knowledge of the existence of a conflict of interest, all facts which the lawyer knew, or by the exercise of reasonable care should have known, will be attributed to the lawyer.</p> <p>Matter: include definition of matter here rather than in Rule 1.11(e).</p>
Rule 1.1	Identical
Rule 1.2	MR 1.2(b) not included and other paragraphs renumbered.
Rule 1.3	A lawyer shall not neglect a legal matter entrusted to the lawyer.
Rule 1.4	Adopted previous MR.
Rule 1.5	<p>(a): uses the phrase "an illegal or clearly excessive fee or a clearly excessive amount for expenses." Moves the factors to a new (b).</p> <p>(b): A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining</p>

	<p>the reasonableness of a fee include the following: <factors are the same> no provision similar to MR (b) on scope and fee no provision similar to MR (c) on contingent fees (c)(1) (MR d1), end reads: “spousal or child support or a property settlement.” (d) (MR e): A division of a fee between lawyers who are not in the same firm may be made only if: (1) the client gives informed consent to the fact that there will be a division of fees, and (2) the total fee of the lawyers for all legal services they rendered the client is not clearly excessive. Adds (e): Paragraph (d) does not prohibit payments to a former firm member pursuant to a separation or retirement agreement, or payments to a selling lawyer for the sale of a law practice pursuant to Rule 1.17.</p>
Rule 1.6	<p>(a) Identical add as (b)(1): to disclose the intention of the lawyer’s client to commit a crime and the information necessary to prevent the crime; (b)(2): Identical (b)(1) does not have MR (b)(2) or (3). (b)(3): Identical (b)(4). (b)(4): Identical (b)(5). (b)(5): similar to MR (b)(6), adds “or as permitted by these Rules” to end. adds (b)(6) to provide the following information in discussions preliminary to the sale of a law practice under Rule 1.17 with respect to each client potentially subject to the transfer: the client's identity; the identities of any adverse parties; the nature and extent of the legal services involved; and fee and payment information. A potential purchasing lawyer shall have the same responsibilities as the selling lawyer to preserve information relating to the representation of such clients whether or not the sale of the practice closes or the client ultimately consents to representation by the purchasing lawyer.</p>
Rule 1.7	<p>Replaces “concurrent conflict of interest” with “current conflict of interest” throughout. adds as (a)(3): the lawyer is related to another lawyer, as parent, child, sibling, spouse or domestic partner, in a matter adverse to a person whom the lawyer knows is represented by the other lawyer in the same matter inserts as (b)(3): the representation does not obligate the lawyer to contend for something on behalf of one client that the lawyer has a duty to oppose on behalf of another client; and</p>
Rule 1.8	<p>(b): added that client consent must be “confirmed in writing” (c): adds “domestic partner” to list of related persons. (e) is worded differently and requires that client remain liable to extent of ability to pay: “While representing a client in connection with contemplated or pending litigation, a lawyer shall not advance or guarantee financial assistance to the lawyer’s client, except that a lawyer may advance or guarantee the expenses of litigation, provided the client remains ultimately liable for such expenses to the extent of the client’s ability to pay.”</p>

	<p>adds (h)(3) and (4): (3) enter into any agreement with a client regarding arbitration of malpractice claims without informed consent, in a writing signed by the client; or</p> <p>(4) enter into an agreement with a client or former client limiting or purporting to limit the right of the client or former client to file or to pursue any complaint before the Oregon State Bar.</p> <p>(j): A lawyer shall not have sexual relations with a current client of the lawyer unless a consensual sexual relationship existed between them before the client-lawyer relationship commenced; or have sexual relations with a representative of a current client of the lawyer if the sexual relations would, or would likely, damage or prejudice the client in the representation. For purposes of this rule:</p> <p>(1) "sexual relations" means sexual intercourse or 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; and</p> <p>(2) "lawyer" means any lawyer who assists in the representation of the client, but does not include other firm members who provide no such assistance.</p>
Rule 1.9	<p>Requires in (a) and (b) that "each affected client" give informed consent rather than just the former client.</p> <p>Adds (d) For purposes of this rule, matters are "substantially related" if (1) the lawyer's representation of the current client will injure or damage the former client in connection with the same transaction or legal dispute in which the lawyer previously represented the former client; or (2) there is a substantial risk that confidential factual information as would normally have been obtained in the prior representation of the former client would materially advance the current client's position in the subsequent matter.</p>
Rule 1.10	<p>Replaced "General Rule" with "Screening" at the end of the Title.</p> <p>(a): adds "or on Rule 1.7(a)(3)" after "prohibited lawyer"</p> <p>(b) Identical</p> <p>(d) and (e) Identical (c) and (d)</p> <p>(c): When a lawyer becomes associated with a firm, no lawyer associated in the firm shall knowingly represent a person in a matter in which that lawyer is disqualified under Rule 1.9, unless the personally disqualified lawyer is screened from any form of participation or representation in the matter. For purposes of this rule, screening requires that:</p> <p>(1) the personally disqualified lawyer shall serve on the lawyer's former law firm an affidavit attesting that during the period of the lawyer's disqualification the personally disqualified lawyer will not participate in any manner in the matter or the representation and will not discuss the matter or the representation with any other firm member; and the personally disqualified lawyer shall serve, if requested by the former law firm, a further affidavit describing the lawyer's actual compliance with these undertakings promptly upon final disposition of the matter or representation;</p> <p>(2) at least one firm member shall serve on the former law firm an affidavit attesting that all firm members are aware of the requirement that the personally disqualified lawyer be screened from participating in or discussing the matter or</p>

	<p>the representation and describing the procedures being followed to screen the personally disqualified lawyer; and at least one firm member shall serve, if requested by the former law firm, a further affidavit describing the actual compliance by the firm members with the procedures for screening the personally disqualified lawyer promptly upon final disposition of the matter or representation; and</p> <p>(3) no violation of this Rule shall be deemed to have occurred if the personally disqualified lawyer does not know that the lawyer's firm members have accepted employment with respect to a matter which would require the making and service of such affidavits and if all firm members having knowledge of the accepted employment do not know of the disqualification.</p>
<p>Rule 1.11</p>	<p>(a): adds "Rule 1.12 or" after "Except as."</p> <p>(b) and (c) Identical with two differences. The limitation on apportionment of fees is not included and screening procedures must be in accordance with the procedures set forth in rule 1.10(c).</p> <p>adds four additional provisions in (d)(2):</p> <p>(i) use the lawyer's public position to obtain, or attempt to obtain, special advantage in legislative matters for the lawyer or for a client.</p> <p>(ii) use the lawyer's public position to influence, or attempt to influence, a tribunal to act in favor of the lawyer or of a client.</p> <p>(iii) 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>(iv) either while in office or after leaving office use information that the lawyer knows is confidential government information obtained while a public official to represent a private client.</p> <p>MR (d)(2)(i) is renumber as (d)(2)(v) and is amended by requiring consent of the lawyer's former client as well as the appropriate government agency.</p> <p>(d)(2)(vi): Identical (d)(2)(ii).</p> <p>MR (e) has been moved to Rule 1.0 definition section</p> <p>add as (e):</p> <p>Notwithstanding any Rule of Professional Conduct, and consistent with the "debate" clause, Article IV, section 9, of the Oregon Constitution, or the "speech or debate" clause, Article I, section 6, of the United States Constitution, a lawyer-legislator shall not be subject to discipline for words uttered in debate in either house of the Oregon Legislative Assembly or for any speech or debate in either house of the United States Congress.</p> <p>add as (f): A member of a lawyer-legislator's firm shall not be subject to discipline for representing a client in any claim against the State of Oregon provided:</p> <p>(1) the lawyer-legislator is screened from participation or representation in the matter in accordance with the procedure set forth in Rule 1.10 (the required affidavits shall be served on the Attorney General); and</p> <p>(2) the lawyer-legislator shall not directly or indirectly receive a fee for such representation</p>
<p>Rule 1.12</p>	<p>(a): adds reference to 2.4(b)</p>

	<p>(b), adds after “law clerk” in second sentence: “or staff lawyer to or otherwise assisting in the official duties of ...”</p> <p>(c)(1): The limitation on apportionment of fees is not included and screening procedures must be in accordance with the procedures set forth in rule 1.10(c).</p>
Rule 1.13	(g): replaces “shall” with “may only”
Rule 1.14	Identical
Rule 1.15	<p>1.15-1</p> <p>(a): A lawyer shall hold property of clients or third persons that is in a lawyer's possession separate from the lawyer's own property. Funds, including advances for costs and expenses and escrow and other funds held for another, shall be kept in a separate "Lawyer Trust Account" maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Each lawyer trust account shall be an interest bearing account in a financial institution selected by the lawyer or law firm in the exercise of reasonable care. Lawyer trust accounts shall conform to Rule 1.15-2. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.</p> <p>(b) and (c) Identical but refer to “lawyer trust account” rather than “client trust account.”</p> <p>(d) and (e) Identical</p> <p>Adds:</p> <p>Rule 1.15-2 Iolta ACCOUNTS and Trust Account Overdraft Notification</p> <p>(a) A lawyer trust account for client funds that cannot earn interest in excess of the costs of generating such interest (“net interest”) shall be referred to as an IOLTA (Interest on Lawyer Trust Accounts) account. A lawyer or law firm establishing an IOLTA account shall so advise the Oregon Law Foundation in writing within 30 days of its establishment.</p> <p>(b) All client funds shall be deposited in the lawyer’s or law firm’s IOLTA account unless a particular client’s funds can earn net interest. All interest earned by funds held in the IOLTA account shall be paid to the Oregon Law Foundation as provided in this rule.</p> <p>(c) Client funds that can earn net interest shall be deposited in an interest bearing trust account for the client’s benefit and the net interest earned by funds in such an account shall be held in trust as property of the client in the same manner as is provided in paragraphs (a) through (d) of Rule 1.15-1 for the principal funds of the client. The interest bearing account shall be either:</p> <p>(1) a separate account for each particular client or client matter; or</p> <p>(2) a pooled lawyer trust account with subaccounting which will provide for computation of interest earned by each client's funds and the payment thereof, net of any bank service charges, to each client.</p> <p>(d) In determining whether client funds can or cannot earn net interest, the lawyer or law firm shall consider the following factors:</p> <p>(1) the amount of the funds to be deposited;</p> <p>(2) the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;</p>

	<p>(3) the rates of interest at financial institutions where the funds are to be deposited;</p> <p>(4) the cost of establishing and administering a separate interest bearing lawyer trust account for the client's benefit, including service charges imposed by financial institutions, the cost of the lawyer or law firm's services, and the cost of preparing any tax-related documents to report or account for income accruing to the client's benefit; (5) the capability of financial institutions, the lawyer or the law firm to calculate and pay income to individual clients; and</p> <p>(6) any other circumstances that affect the ability of the client's funds to earn a net return for the client.</p> <p>(e) The lawyer or law firm shall review the IOLTA account at reasonable intervals to determine whether circumstances have changed that require further action with respect to the funds of a particular client.</p> <p>(f) If a lawyer or law firm determines that a particular client's funds in an IOLTA account either did or can earn net interest, the lawyer shall transfer the funds into an account specified in paragraph (c) of this rule and request a refund for any interest earned by the client's funds that may have been remitted to the Oregon Law Foundation.</p> <p>(1) The request shall be made in writing to the Oregon Law Foundation within a reasonable period of time after the interest was remitted to the Foundation and shall be accompanied by written verification from the financial institution of the interest amount.</p> <p>(2) The Oregon Law Foundation will not refund more than the amount of interest it received from the client's funds in question. The refund shall be remitted to the financial institution for transmittal to the lawyer or law firm, after appropriate accounting and reporting.</p> <p>(g) No earnings from a lawyer trust account shall be made available to a lawyer or the lawyer's firm.</p> <p>(h) A lawyer or law firm may maintain a lawyer trust account only at a financial institution that:</p> <p>(1) is authorized by state or federal banking laws to transact banking business in the state where the account is maintained;</p> <p>(2) is insured by the Federal Deposit Insurance Corporation or an analogous federal government agency;</p> <p>(3) has entered into an agreement with the Oregon Law Foundation:</p> <p>(i) to remit to the Oregon Law Foundation, at least quarterly, interest earned on the average daily balance in the lawyer's or law firm's IOLTA account, less reasonable service charges, if any; and</p> <p>(ii) to deliver to the Oregon Law Foundation a report with each remittance showing the name of the lawyer or law firm for whom the remittance is sent, the number of the IOLTA account as assigned by the financial institution, the average daily account balance for each month for which the remittance is made, the rate of interest applied, the period for which the remittance is made, and the amount and description of any service charges deducted during the remittance period; and</p> <p>(4) has entered into an overdraft notification agreement with the Oregon State Bar</p>
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	<p>requiring the financial institution to report to the Oregon State Bar Disciplinary Counsel when any properly payable instrument is presented against such account containing insufficient funds, whether or not the instrument is honored.</p> <p>(i) Overdraft notification agreements with financial institutions shall require that the following information be provided in writing to Disciplinary Counsel within ten banking days of the date the item was returned unpaid:</p> <p>(1) the identity of the financial institution;</p> <p>(2) the identity of the lawyer or law firm;</p> <p>(3) the account number; and</p> <p>(4) either (i) the amount of the overdraft and the date it was created; or (ii) the amount of the returned instrument and the date it was returned.</p> <p>(j) Agreements between financial institutions and the Oregon State Bar shall apply to all branches of the financial institution and shall not be canceled except upon a thirty-day notice in writing to Disciplinary Counsel.</p> <p>(k) Nothing in this rule shall preclude financial institutions which participate in any trust account overdraft notification program from charging lawyers or law firms for the reasonable costs incurred by the financial institutions in participating in such program.</p> <p>(l) Every lawyer who receives notification from a financial institution that any instrument presented against his or her lawyer trust account was presented against insufficient funds, whether or not the instrument was honored, shall promptly notify Disciplinary Counsel in writing of the same information required by paragraph (i). The lawyer shall include a full explanation of the cause of the overdraft.</p>
Rule 1.16	Identical
Rule 1.17	<p>(a) A lawyer or law firm may sell or purchase all or part of a law practice, including goodwill, in accordance with this rule.</p> <p>(b) The selling lawyer, or the selling lawyer's legal representative, in the case of a deceased or disabled lawyer, shall provide written notice of the proposed sale to each current client whose legal work is subject to transfer, by certified mail, return receipt requested, to the client's last known address. The notice shall include the following information:</p> <p>(1) that a sale is proposed;</p> <p>(2) the identity of the purchasing lawyer or law firm, including the office address(es), and a brief description of the size and nature of the purchasing lawyer's or law firm's practice;</p> <p>(3) that the client may object to the transfer of its legal work, may take possession of any client files and property, and may retain counsel other than the purchasing lawyer or law firm;</p> <p>(4) that the client's legal work will be transferred to the purchasing lawyer or law firm, who will then take over the representation and act on the client's behalf, if the client does not object to the transfer within forty-five (45) days after the date the notice was mailed; and</p> <p>(5) whether the selling lawyer will withdraw from the representation not less than forty-five (45) days after the date the notice was mailed, whether or not the client consents to the transfer of its legal work.</p>

	<p>(c) The notice may describe the purchasing lawyer or law firm's qualifications, including the selling lawyer's opinion of the purchasing lawyer or law firm's suitability and competence to assume representation of the client, but only if the selling lawyer has made a reasonable effort to arrive at an informed opinion.</p> <p>(d) If certified mail is not effective to give the client notice, the selling lawyer shall take such steps as may be reasonable under the circumstances to give the client actual notice of the proposed sale and the other information required in subsection (b).</p> <p>(e) A client's consent to the transfer of its legal work to the purchasing lawyer or law firm will be presumed if no objection is received within forty-five (45) days after the date the notice was mailed.</p> <p>(f) If substitution of counsel is required by the rules of a tribunal in which a matter is pending, the selling lawyer shall assure that substitution of counsel is made.</p> <p>(g) The fees charged clients shall not be increased by reason of the sale except upon agreement of the client.</p> <p>(h) The sale of a law practice may be conditioned on the selling lawyer's ceasing to engage in the private practice of law or some particular area of practice for a reasonable period within the geographic area in which the practice has been conducted.</p>
<p>Rule 1.18</p>	<p>proposed rule from E2k draft of August 2001 without the limitation on 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>
<p>Rule 2.1</p>	<p>Identical</p>
<p>Rule 2.2</p>	<p>Identical</p>
<p>Rule 2.3</p>	<p>Identical</p>
<p>Rule 2.4</p>	<p>Lawyer Serving as Mediator</p> <p>(a) A lawyer serving as a mediator:</p> <p>(1) shall not act as a lawyer for any party against another party in the matter in mediation or in any related proceeding; and</p> <p>(2) must clearly inform the parties of and obtain the parties' consent to the lawyer's role as mediator.</p> <p>(b) A lawyer serving as a mediator:</p> <p>(1) may prepare documents that memorialize and implement the agreement reached in mediation;</p> <p>(2) shall recommend that each party seek independent legal advice before executing the documents; and</p> <p>(3) with the consent of all parties, may record or may file the documents in court.</p> <p>(c) Notwithstanding Rule 1.10, when a lawyer is serving or has served as a mediator in a matter, a member of the lawyer's firm may accept or continue the representation of a party in the matter in mediation or in a related matter if all parties to the mediation give informed consent, confirmed in writing.</p>

	(d) The requirements of Rule 2.4(a)(2) and (b)(2) shall not apply to mediation programs established by operation of law or court order.
Rule 3.1	In representing a client or the lawyer's own interests, a lawyer shall not knowingly bring or defend a proceeding, assert a position therein, delay a trial or take other action on behalf of a client, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law, except that a lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration may, nevertheless so defend the proceeding as to require that every element of the case be established.
Rule 3.2	Did not adopt
Rule 3.3	(a): adds (4) and (5): 4) conceal or fail to disclose to a tribunal that which the lawyer is required by law to reveal; or (5) knowingly engage in other illegal conduct or conduct contrary to these Rules. (c): replaces "apply even if" with "unless"
Rule 3.4	(a): adds "knowingly and" to beginning. (b): adds at the end: ; or pay, offer to pay, or acquiesce in payment of compensation to a witness contingent upon the content of the witness's testimony or the outcome of the case; except that a lawyer may advance, guarantee or acquiesce in the payment of: (1) expenses reasonably incurred by a witness in attending or testifying; (2) reasonable compensation to a witness for the witness' loss of time in attending or testifying; or (3) a reasonable fee for the professional services of an expert witness. (f): advise or cause a person to secrete himself or herself or to leave the jurisdiction of a tribunal for purposes of making the person unavailable as a witness therein; or adds (g): threaten to present criminal charges to obtain an advantage in a civil matter unless the lawyer reasonably believes the charge to be true and if the purpose of the lawyer is to compel or induce the person threatened to take reasonable action to make good the wrong which is the subject of the charge.
Rule 3.5	(b): adds "on the merits of a cause" after "ex parte" adds (e): fail to reveal promptly to the court improper conduct by a venireman or a juror, or by another toward a venireman or a juror or a member of their families, of which the lawyer has knowledge.
Rule 3.6	(c) Notwithstanding paragraph (a), a lawyer may: (1) reply to charges of misconduct publicly made against the lawyer; or (2) participate in the proceedings of legislative, administrative or other investigative bodies. Adds (e): A lawyer shall exercise reasonable care to prevent the lawyer's employees from making an extrajudicial statement that the lawyer would be prohibited from making under this rule.
Rule 3.7	(a): deletes "necessary" and adds after "witness" "on behalf of the lawyer's client" adds (a)(4): the lawyer is appearing pro se.

	(b): deletes language after “witness” and replaces with “on behalf of the lawyer’s client” adds (c): If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that the lawyer or a member of the lawyer's firm may be called as a witness other than on behalf of the lawyer's client, the lawyer may continue the representation until it is apparent that the lawyer's or firm member's testimony is or may be prejudicial to the lawyer's client.
Rule 3.8	Does not have MR (b), (c), (e) or (f) (b): Identical (d)
Rule 3.9	Identical
Rule 4.1	Identical
Rule 4.2	In representing a client or the lawyer's own interests, a lawyer shall not communicate or cause another to communicate on the subject of the representation with a person the lawyer knows to be represented by a lawyer on that subject unless: (a) the lawyer has the prior consent of a lawyer representing such other person; (b) the lawyer is authorized by law or by court order to do so; or (c) a written agreement requires a written notice or demand to be sent to such other person, in which case a copy of such notice or demand shall also be sent to such other person's lawyer.
Rule 4.3	Title: uses “Persons” adds reference to “the lawyer’s own interests” at the beginning and end.
Rule 4.4	Title: adds “; Inadvertently Sent Documents” to end. (a): adds “or the lawyer’s own interests” after “client” and “knowingly” before “use methods.”
Rule 5.1	Does not have MR (a) or (b).
Rule 5.2	Identical
Rule 5.3	Does not have MR (a). First paragraph: replaced “associated with” with “supervised or directed” (b) (MR c): adds “except as provided in 8.4(b)”
Rule 5.4	(a)(1): replaces “partner, or associate” with “or firm members.” (d)(2): adds to end “except as authorized by law.” adds as (e): A lawyer shall not refer a client to a nonlawyer with the understanding that the lawyer will receive a fee, commission or anything of value in exchange for the referral, but a lawyer may accept gifts in the ordinary course of social or business hospitality.
Rule 5.5	Title: does not have “of law” after “Multijurisdictional Practice.” Adds (c)(5): “are provided to the lawyer’s employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission.” (d)(1): does not have.
Rule 5.6	(b): adds “direct or indirect” before restriction
Rule 5.7	RESERVED
Rule 6.1	Reserved

Rule 6.2	RESERVED
Rule 6.3	Identical
Rule 6.4	Identical
Rule 6.5	Identical
Rule 7.1	<p>(a) A lawyer shall not make or cause to be made any communication about the lawyer or the lawyer's firm, whether in person, in writing, electronically, by telephone or otherwise, if the communication:</p> <ol style="list-style-type: none"> (1) contains a material misrepresentation of fact or law, or omits a statement of fact or law necessary to make the communication considered as a whole not materially misleading; (2) is intended or is reasonably likely to create a false or misleading expectation about results the lawyer or the lawyer's firm can achieve; (3) except upon request of a client or potential client, compares the quality of the lawyer's or the lawyer's firm's services with the quality of the services of other lawyers or law firms; (4) states or implies that the lawyer or the lawyer's firm specializes in, concentrates a practice in, limits a practice to, is experienced in, is presently handling or is qualified to handle matters or areas of law if the statement or implication is false or misleading; (5) states or implies that the lawyer or the lawyer's firm is in a position to improperly influence any court or other public body or office; (6) contains any endorsement or testimonial, unless the communication clearly and conspicuously states that any result that the endorsed lawyer or law firm may achieve on behalf of one client in one matter does not necessarily indicate that similar results can be obtained for other clients; (7) states or implies that one or more persons depicted in the communication are lawyers who practice with the lawyer or the lawyer's firm if they are not; (8) states or implies that one or more persons depicted in the communication are current clients or former clients of the lawyer or the lawyer's firm if they are not, unless the communication clearly and conspicuously discloses that the persons are actors or actresses; (9) states or implies that one or more current or former clients of the lawyer or the lawyer's firm have made statements about the lawyer or the lawyer's firm, unless the making of such statements can be factually substantiated; (10) contains any dramatization or recreation of events, such as an automobile accident, a courtroom speech or a negotiation session, unless the communication clearly and conspicuously discloses that a dramatization or recreation is being presented; (11) is false or misleading in any manner not otherwise described above; or (12) violates any other Rule of Professional Conduct or any statute or regulation applicable to solicitation, publicity or advertising by lawyers. <p>(b) An unsolicited communication about a lawyer or the lawyer's firm in which services are being offered must be clearly and conspicuously identified as an advertisement unless it is apparent from the context that it is an advertisement.</p> <p>(c) An unsolicited communication about a lawyer or the lawyer's firm in which</p>

	<p>services are being offered must clearly identify the name and post office box or street address of the office of the lawyer or law firm whose services are being offered.</p> <p>(d) A lawyer may pay others for disseminating or assisting in the dissemination of communications about the lawyer or the lawyer's firm only to the extent permitted by Rule 7.2.</p> <p>(e) A lawyer may not engage in joint or group advertising involving more than one lawyer or law firm unless the advertising complies with Rules 7.1, 7.2, and 7.3 as to all involved lawyers or law firms. Notwithstanding this rule, a bona fide lawyer referral service need not identify the names and addresses of participating lawyers.</p>
Rule 7.2	<p>(a) A lawyer may pay the cost of advertisements permitted by these rules and may hire employees or independent contractors to assist as consultants or advisors in marketing a lawyer's or law firm's services. A lawyer shall not otherwise compensate or give anything of value to a person or organization to promote, recommend or secure employment by a client, or as a reward for having made a recommendation resulting in employment by a client, except as permitted by paragraph (c) or Rule 1.17.</p> <p>(b) A lawyer shall not request or knowingly permit a person or organization to promote, recommend or secure employment by a client through any means that involves false or misleading communications about the lawyer or the lawyer's firm. If a lawyer learns that employment by a client has resulted from false or misleading communications about the lawyer or the lawyer's firm, the lawyer shall so inform the client.</p> <p>(c) A lawyer or law firm may be recommended, employed or paid by, or cooperate with, a prepaid legal services plan, lawyer referral service, legal service organization or other similar plan, service or organization so long as:</p> <p>(1) the operation of such plan, service or organization does not result in the lawyer or the lawyer's firm violating Rule 5.4, Rule 5.5, ORS 9.160, or ORS 9.500 through 9.520;</p> <p>(2) the recipient of legal services, and not the plan, service or organization, is recognized as the client;</p> <p>(3) no condition or restriction on the exercise of any participating lawyer's professional judgment on behalf of a client is imposed by the plan, service or organization; and</p> <p>(4) such plan, service or organization does not make communications that would violate Rule 7.3 if engaged in by the lawyer.</p>
Rule 7.3	<p>Adds (b)(1): "the lawyer knows or reasonably should know that the physical, emotional or mental state of the prospective client is such that the person could not exercise reasonable judgment in employing a lawyer;"</p> <p>(c): replaces "Advertising Material" with "Advertisement" after "shall include the words."</p> <p>adds "in noticeable and clearly readable fashion" before "on the outside envelope."</p>
Rule 7.4	Reserved
Rule 7.5	(a) A lawyer may use professional announcement cards, office signs, letterheads,

	<p>telephone and electronic directory listings, legal directory listings or other professional notices so long as the information contained therein complies with Rule 7.1 and other applicable Rules.</p> <p>(b) A lawyer may be designated "Of Counsel" on a letterhead if the lawyer has a continuing professional relationship with a lawyer or law firm, other than as a partner or associate. A lawyer may be designated as "General Counsel" or by a similar professional reference on stationery of a client if the lawyer or the lawyer's firm devotes a substantial amount of professional time in the representation of the client.</p> <p>(c) A lawyer in private practice:</p> <p>(1) shall not practice under a name that is misleading as to the identity of the lawyer or lawyers practicing under such name or under a name that contains names other than those of lawyers in the firm;</p> <p>(2) may use a trade name in private practice if the name does not state or imply a connection with a governmental agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1; and</p> <p>(3) may use in a firm name the name or names of one or more of the retiring, deceased or retired members of the firm or a predecessor law firm in a continuing line of succession. The letterhead of a lawyer or law firm may give the names and dates of predecessor firms in a continuing line of succession and may designate the firm or a lawyer practicing in the firm as a professional corporation.</p> <p>(d) Except as permitted by paragraph (c), a lawyer shall not permit his or her name to remain in the name of a law firm or to be used by the firm during the time the lawyer is not actively and regularly practicing law as a member of the firm. During such time, other members of the firm shall not use the name of the lawyer in the firm name or in professional notices of the firm. This rule does not apply to periods of one year or less during which the lawyer is not actively and regularly practicing law as a member of the firm if it was contemplated that the lawyer would return to active and regular practice with the firm within one year.</p> <p>(e) Lawyers shall not hold themselves out as practicing in a law firm unless the lawyers are actually members of the firm.</p> <p>(f) Subject to the requirements of paragraph (c), a law firm practicing in more than one jurisdiction may use the same name in each jurisdiction, but identification of the firm members in an office of the firm shall indicate the jurisdictional limitations of those not licensed to practice in the jurisdiction where the office is located.</p>
Rule 7.6	RESERVED
Rule 8.1	<p>adds as (b) and (c):</p> <p>(b) A lawyer admitted to practice in this state shall, within 30 days after receiving notice thereof, report in writing to the disciplinary counsel of the Oregon State Bar the commencement against the lawyer of any disciplinary proceeding in any other jurisdiction.</p> <p>(c) A lawyer who is the subject of a complaint or referral to the State Lawyers Assistance Committee shall, subject to the exercise of any applicable right or privilege, cooperate with the committee and its designees, including:</p>

	<p>(1) responding to the initial inquiry of the committee or its designees; (2) furnishing any documents in the lawyer's possession relating to the matter under investigation by the committee or its designees; (3) participating in interviews with the committee or its designees; and (4) participating in and complying with a remedial program established by the committee or its designees.</p>
Rule 8.2	<p>(a): does not include "public legal officer" after "adjudicatory officer." Replaces "legal office" with "other adjudicatory office."</p>
Rule 8.3	<p>replaces MR (c) with this: (c) This rule does not require disclosure of information otherwise protected by Rule 1.6 or ORS 9.460(3), or to lawyers who obtain such knowledge or evidence while: (1) acting as a member, investigator, agent, employee or as a designee of the State Lawyers Assistance Committee; or (2) acting as a board member, employee, investigator, agent or lawyer for or on behalf of the Professional Liability Fund or as a Board of Governors liaison to the Professional Liability Fund; or (3) participating in the loss prevention programs of the Professional Liability Fund, including the Oregon Attorney Assistance Program.</p>
Rule 8.4	<p>Paragraphs (a)(1) through (5) are similar to Model Rule 8.4(a) through (f) (a)(1) (MR a): does not include "or attempt to violate." (a)(3) (MR c): adds to end "that reflects adversely on the lawyer's fitness to practice law." adds (b) Notwithstanding paragraphs (a) and Rule 3.3, it shall not be professional misconduct for a lawyer to advise clients or others about or to supervise lawful covert activity in the investigation of violations of civil or criminal law or constitutional rights, provided the lawyer's conduct is otherwise in compliance with these disciplinary rules. "Covert activity," as used in this rule, means an effort to obtain information on unlawful activity through the use of misrepresentations or other subterfuge. "Covert activity" may be commenced by a lawyer or involve a lawyer as an advisor or supervisor only when the lawyer in good faith believes there is a reasonable possibility that unlawful activity has taken place, is taking place or will take place in the foreseeable future.</p>
Rule 8.5	<p>Identical</p>
Rule 8.6	<p>Add as Rule 8.6 RULE 8.6 WRITTEN ADVISORY OPINIONS ON PROFESSIONAL CONDUCT; CONSIDERATION GIVEN IN DISCIPLINARY PROCEEDINGS (a) The Oregon State Bar Board of Governors may issue formal written advisory opinions on questions under this code. The Oregon State Bar Legal Ethics Committee and General Counsel may also issue informal written opinions on questions under these Rules. The General Counsel's Office of the Oregon State Bar shall maintain records of both OSB formal and informal ethics opinions and shall make copies of each available to the Oregon Supreme Court, Disciplinary Board, State Professional Responsibility Board, and Disciplinary Counsel. The General Counsel's Office may also disseminate the bar's advisory opinions as it</p>

	<p>deems appropriate to its role in educating lawyers about these Rules.</p> <p>(b) In considering alleged violations of these Rules, the Disciplinary Board and Oregon Supreme Court may consider any lawyer's good faith effort to comply with an opinion issued under paragraph (a) of this rule as:</p> <p>(1) a showing of the lawyer's good faith effort to comply with these Rules; and</p> <p>(2) a basis for mitigation of any sanction that may be imposed if the lawyer is found to be in violation of these Rules.</p> <p>(c) This rule is not intended to, and does not, preclude the Disciplinary Board or the Oregon Supreme Court from considering any other evidence of either good faith or basis for mitigation in a bar disciplinary proceeding.</p>
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