

**American Bar Association
CPR Policy Implementation Committee**

Variations of the ABA Model Rules of Professional Conduct

SCOPE

[14] The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the Rules are imperatives, cast in the terms "shall" or "shall not." These define proper conduct for purposes of professional discipline. Others, generally cast in the term "may," are permissive and define areas under the Rules in which the lawyer has discretion to exercise professional judgment. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of such discretion. Other Rules define the nature of relationships between the lawyer and others. The Rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role. Many of the Comments use the term "should." Comments do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules.

[15] The Rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general. The Comments are sometimes used to alert lawyers to their responsibilities under such other law.

[16] Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings. The Rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The Rules simply provide a framework for the ethical practice of law.

[17] Furthermore, for purposes of determining the lawyer's authority and responsibility, principles of substantive law external to these Rules determine whether a client-lawyer relationship exists. Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so. But there are some duties, such as that of confidentiality under Rule 1.6, that attach when the lawyer agrees to consider whether a client-lawyer relationship shall be established. See Rule 1.18. Whether a client-lawyer relationship exists for any specific purpose can depend on the circumstances

and may be a question of fact.

[18] Under various legal provisions, including constitutional, statutory and common law, the responsibilities of government lawyers may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide upon settlement or whether to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. These Rules do not abrogate any such authority.

[19] 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 whether or not discipline should be imposed 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.

[20] Violation of a Rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a Rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer in pending litigation. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. Nevertheless, since the Rules do establish standards of conduct by lawyers, a lawyer's violation of a Rule may be evidence of breach of the applicable standard of conduct.

[21] The Comment accompanying each Rule explains and illustrates the meaning and purpose of the Rule. The Preamble and this note on Scope provide general orientation. The Comments are intended as guides to

	<p>interpretation, but the text of each Rule is authoritative.</p> <p>Variations from ABA Model Rule are noted. Based on reports of state committees reviewing recent changes to the model rules. For information on individual state committee reports, see http://www.abanet.org/cpr/jclr/home.html.</p> <p>Comments not included.</p> <p>*Current links to state Rules of Professional conduct can be found on the ABA website: http://www.abanet.org/cpr/links.html*</p>
<p>AL Effective 2/19/09</p>	<p>Deletes sentence beginning with “The Comments are sometimes”</p> <p>Combines [15] and [16] into one paragraph.</p> <p>[17] Deletes “See Rule 1.8”</p> <p>[18] Adds as second-to-last sentence, <i>They also may have authority to represent the “public interest” in circumstances where a private lawyer would not be authorized to do so.</i></p> <p>[20] Deletes sentence: “In addition, violation...pending litigation;” replaces last sentence with: <i>Accordingly, nothing in the Rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty.</i></p> <p>Adds between [20] and [21]:</p> <p><i>Moreover, these Rules are not intended to govern or affect judicial application of either the attorney-client or work product privilege. Those privileges were developed to promote compliance with law and fairness in litigation. In reliance on the attorney-client privilege, clients are entitled to expect that communications within the scope of the privilege will be protected against compelled disclosure. The attorney-client privilege is that of the client and not of the lawyer. The fact that in exceptional situations the lawyer under the Rules has a limited discretion to disclose a client confidence does not vitiate the proposition that, as a general matter, the client has a reasonable expectation that information relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges.</i></p> <p><i>The lawyer's exercise of discretion not to disclose information under Rule 1.6 should not be subject to reexamination. Permitting such reexamination would be incompatible with the general policy of promoting compliance with law through assurances that communications will be protected against disclosure.</i></p> <p>Adds to end of [21]:</p> <p><i>Research notes were prepared by the Alabama State Bar Permanent Code Commission to compare counterparts in the former Alabama Code of Professional Responsibility and to provide selected references to other authorities. These were intended by the Commission to assist in the study by the Court of the proposed Rules and in the transition by the lawyer from the former Code of Professional Responsibility to these Rules of Professional</i></p>

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	<i>Conduct. The notes have not been adopted by the Court, do not constitute part of the Rules, and are not intended to affect the application or interpretation of the Rules and Comments.</i>
AK Effective 4/15/09	[15] Changes “under such other law” to “under this other law;” [18] Replaces language after “multiple private clients” with “They also may have authority to represent the “public interest” in circumstances where a private lawyer would not be authorized to do so. These Rules do not abrogate any such authority. See <i>Botelho v. Griffin</i> , 25 P.3d 689 (Alaska 2001).”
AZ Effective 12/1/03	Did not delete the second to the last sentence in [18]: "They also may have authority to represent the "public interest" in circumstances where a private lawyer would not be authorized to do so."
AR Effective 5/1/05	[14], fifth sentence: adds “professional” before “discretion.” [20]: deletes last sentence.
CA Current Rule	[California’s Rules of Professional Conduct are structured differently from the ABA Model Rules. Please see California Rules : http://calbar.ca.gov/calbar/pdfs/rules/Rules_Professional-Conduct.pdf]
CO Effective 1/1/08	Same as MR
CT Effective 1/1/07	Does not number paragraphs First paragraph: same as MR [14] but does not have last two sentences Second paragraph: same as former MR [14] Third paragraph: same as MR [17] Fourth paragraph: same as former MR [16] Fifth and sixth paragraphs: same as MR [19] and [20] Seventh and eighth paragraphs: same as former MR [19] and [20] Ninth paragraph: same as MR [21] but adds “Commentaries do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules. The Commentaries are sometimes used to alert lawyers to their responsibilities under other law, such as court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general.” to end
DE Effective 7/1/03	[20]: Did not add last sentence: "Nevertheless, since the Rules do establish standards of conduct by lawyers, a lawyer's violation of a Rule may be evidence of breach of the applicable standard of conduct."
District of Columbia Effective 2/1/07	[1]: same as MR [14] but in fifth sentence adds “professional” before “discretion” and then ends sentence. In last sentence adds “interpreting the Rules and” after “guidance for” and replaces “the Rules” with “them” [2]: combines first two sentences of MR [15] and all of MR [16] [3]: same as MR [19] [4] Nothing in these Rules, the Comments associated with them, or this Scope section is intended to enlarge or restrict existing law regarding the liability of lawyers to others or the requirements that the testimony of expert witnesses or other modes of proof must be employed in determining the scope of a lawyer’s duty to others. Moreover, nothing in the Rules or associated Comments or this Scope section is

	<p>intended to confer rights on an adversary of a lawyer to enforce the Rules in a proceeding other than a disciplinary proceeding. Some judicial decisions have considered the standard of conduct established in these Rules in determining the standard of care applicable in a proceeding other than a disciplinary proceeding. A tribunal presented with claims that the conduct of a lawyer appearing before that tribunal requires, for example, disqualification of the lawyer and/or the lawyer’s firm may take such action as seems appropriate in the circumstances, which may or may not involve disqualification.</p> <p>[5] In interpreting these Rules, the specific shall control the general in the sense that any rule that specifically addresses conduct shall control the disposition of matters and the outcome of such matters shall not turn upon the application of a more general rule that arguably also applies to the conduct in question. In a number of instances, there are specific rules that address specific types of conduct. The rule of interpretation expressed here is meant to make it clear that the general rule does not supplant, amend, enlarge, or extend the specific rule. So, for instance, the general terms of Rule 1.3 are not intended to govern conflicts of interest, which are particularly discussed in Rules 1.7, 1.8, and 1.9. Thus, conduct that is proper under the specific conflicts rules is not improper under the more general rule of Rule 1.3. Except where the principle of priority stated here is applicable, however, compliance with one rule does not generally excuse compliance with other rules. Accordingly, once a lawyer has analyzed the ethical considerations under a given rule, the lawyer must generally extend the analysis to ensure compliance with all other applicable rules.</p> <p>[6]: same as MR [21] but deletes “The Preamble and,” adds “and general rules of interpretation” after “orientation” and replaces “authoritative” with “controlling”</p>
<p>FL Effective 5/22/06</p>	<p>Does not number paragraphs First paragraph: same as MR [14] but does not include last two sentences Second paragraph, first two sentences are new: The comment accompanying each rule explains and illustrates the meaning and purpose of the rule. The comments are intended only as guides to interpretation, whereas the text of each rule is authoritative. Last sentence: same as last sentence of MR [14] but changes beginning “Thus, comments, even when they use the term “should,” do not add ...” Adds “merely” before “provide” Third paragraph: combines MR [15] and [16] but moves last sentence of [15] to end of paragraph, deleting “such” Fourth paragraph: same as MR [17] Does not have MR [18] Fifth paragraph: same as MR [19] but deletes “and” before “in recognition” in second sentence and “or not” after “whether” in third sentence Sixth paragraph: same as MR [20] but adds new seventh sentence “Accordingly, nothing in the rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such duty.” Does not have MR [21]</p>
<p>GA* Effective</p>	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p>

<p>1/1/01</p>	<p>[13] (MR [14]) Replaces « has discretion...judgement » with « has personal discretion ; » Replaces “No disciplinary action...between the lawyer and others” with “Disciplinary action shall not be taken when the lawyer's conduct falls within the bounds of such discretion;” Replaces language after “and partly” with “aspirational and descriptive. Together they define a lawyer's professional role. Comments do not add obligations to or expand the Rules but provide guidance for practicing in compliance with the Rules;” [14] Combines MR [15] and [16] but deletes “The Comments...such other law;” [15] Changes “that attach when” to “that may attach;” [16] Adds “by law” after “authorized;” Adds sentence before last, “They also may have authority to represent the "public interest" in circumstances where a private lawyer would not be authorized to do so;” <i>[18] The purpose of these Rules is not to give rise to a cause of action nor to create a presumption that a legal duty has been breached. These Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. Accordingly, nothing in the Rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty.</i> <i>[19] Moreover, these Rules are not intended to govern or affect judicial application of either the attorney-client or work product privilege. In reliance on the attorney-client privilege, clients are entitled to expect that communications within the scope of the privilege will be protected against compelled disclosure. The attorney-client privilege is that of the client and not of the lawyer. The fact that in exceptional situations the lawyer under the rules has a limited discretion to disclose a client confidence does not vitiate the proposition that, as a general matter, the client has a reasonable expectation that information relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges.</i> [20] Reserved.</p>
<p>HI* Effective 1/1/94</p>	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>[1] Changes “discretion...judgement” to “professional discretion;” MR [15] and [16] are combined into [2], but sentence, “Comments do not add...with the rules,” is deleted; [3] Deletes “See Rule 1.18;” [4] Deletes sentence beginning with “For example;” adds instead “See, e.g., <i>State v. Klattenhoff</i>, 71 Haw. 598, 801 P.2d 548 (1990); <i>Sapienza v. Heen</i>, 57 Haw. 284, 554 P.2d 1128 (1976); <i>Island-Gentry Joint Venture v. State</i>, 57 Haw. 259, 554 P.2d 761 (1976). For example, a lawyer for a government agency may have authority on behalf</p>

	<p>of the government to decide upon settlement or whether to appeal from an adverse judgment. <i>See, e.g., Island-Gentry Joint Venture v. State</i>, 57 Haw. 259, 264-65, 554 P.2d 761, 765 (1976) (recognizing Attorney General's "exclusive [statutory] authority to control and manage for the State all phases of civil litigation in which the State has an interest");" adds as second to last sentence, "They also may have authority to represent the "public interest" in circumstances where a private lawyer would not be authorized to do so;"</p> <p>[6] Deletes sentence beginning with, "In addition;" replaces language after "enforcement of the Rule" with "Accordingly, nothing in the rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty;"</p> <p>[7] <i>Moreover, these rules are not intended to govern or affect judicial application of either the attorney-client or work product privilege except insofar as those rules provide otherwise. Those privileges were developed to promote compliance with law and fairness in litigation. In reliance on the attorney-client privilege, clients are entitled to expect that communications within the scope of the privilege will be protected against compelled disclosure. The attorney-client privilege is that of the client and not of the lawyer. The fact that in exceptional situations the lawyer under the rules has a limited discretion to disclose a client confidence does not vitiate the proposition that, as a general matter, the client has a reasonable expectation that information relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges.</i></p> <p>[8] <i>The lawyer's exercise of discretion not to disclose information under Rule 1.6 should not be subject to reexamination. Permitting such reexamination would be incompatible with the general policy of promoting compliance with law through assurances that communications will be protected against disclosure.</i></p> <p>[9] is MR [21].</p>
<p>ID Effective 7/1/04</p>	<p>Same as MR</p>
<p>IL Effective 1/1/2010</p>	<p>[14] adds "and the Preamble and Scope" to last sentence of paragraph, beginning with "Comments;"</p> <p>[21] adds "and are instructive and not directive" after "provide general orientation."</p>
<p>IN Effective 1/1/05</p>	<p>[20]: changes the 4th sentence to: They are not designed to be a basis for civil liability, but these Rules may be used as non-conclusive evidence that a lawyer has breached a duty owed to a client.</p>
<p>IA Effective 7/1/05</p>	<p>Same as MR</p>
<p>KS Effective 7/1/07</p>	<p>[20] Deletes language after "enforcement of the Rule."</p>
<p>KY Effective 7/15/09</p>	<p>Same as MR but changes numbering throughout.</p>

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LA Effective 3/1/04	Does not have
ME Effective 8/1/09	<p>[14] Adds to end: “The Reporter’s Notes are designed to elucidate and provide historical context for the recommendations of the Maine Task Force on Ethics;”</p> <p>[21] Changes language to:</p> <p><i>[21] The Comment and Reporter’s Notes accompanying each Rule explain and illustrate the meaning and purpose of the Rule. The Preamble provides general orientation. The Comments and Reporter’s Notes are intended as guides to interpretation. However, only the text of each Rule is authoritative to govern attorney conduct.”</i></p>
MD Effective 7/1/05	<p>[20], changes last MR sentence and adds new last sentence: Nevertheless, since the Rules do establish standards of conduct by lawyers in some circumstances, a lawyer’s violation of a Rule may be evidence of breach of the applicable standard of conduct. <u>Nothing in this Preamble and Scope is intended to detract from the holdings of the Court of Appeals in <i>Post v. Bregman</i>, 349 Md. 142 (1998) and <i>Son v. Margolius, Mallios, Davis, Rider & Tomar</i>, 349 Md. 441 (1998).</u></p>
MA Rules effective 9/1/08	<p>[15] Deletes language after “law in general;”</p> <p>Replaces language after “multiple private clients” with “They also may have authority to represent the "public interest" in circumstances where a private lawyer would not be authorized to do so. These rules are not meant to address the substantive statutory and constitutional authority of the Attorney General when appearing for the Commonwealth to assume primary control over the litigation and to decide matters of legal policy on behalf of the Commonwealth;”</p> <p>Does not adopt [20];</p> <p>Adds:</p> <p><i>"A violation of a canon of ethics or a disciplinary rule . . . is not itself an actionable breach of duty to a client." <i>Fishman v. Brooks</i>, 396 Mass. 643, 649 (1986). The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. The fact that a Rule is just a basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not necessarily mean that an antagonist in a collateral proceeding or transaction may rely on a violation of a Rule. "As with statutes and regulations, however, if a plaintiff can demonstrate that a disciplinary rule was intended to protect one in his position, a violation of that rule may be some evidence of the attorney's negligence." <i>Id.</i> at 649.</i></p> <p><i>Moreover, these Rules are not intended to govern or affect judicial application of either the attorney-client or work product privilege. Those privileges were developed to promote compliance with law and fairness in litigation. In reliance on the attorney-client privilege, clients are entitled to expect that communications within the scope of the privilege will be protected against compelled disclosure. The attorney-client privilege is that of the client and not of the lawyer. The fact that in exceptional situations the lawyer under the Rules has a limited discretion to disclose a client confidence does not</i></p>

	<p><i>vitiates the proposition that, as a general matter, the client has a reasonable expectation that information relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges.</i></p>
<p>MI* Rules effective 10/1/88</p> <p>New Proposed 11/24/09</p>	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>Rule 1.0 Scope and Applicability of Rules and Commentary. <i>(a) These are the Michigan Rules of Professional Conduct. The form of citation for this rule is MRPC 1.0. (b) Failure to comply with an obligation or prohibition imposed by a rule is a basis for invoking the disciplinary process. The rules do not, however, give rise to a cause of action for enforcement of a rule or for damages caused by failure to comply with an obligation or prohibition imposed by a rule. In a civil or criminal action, the admissibility of the Rules of Professional Conduct is governed by the Michigan Rules of Evidence and other provisions of law. (c) The text of each rule is authoritative. The comment that accompanies each rule does not expand or limit the scope of the obligations, prohibitions, and counsel found in the text of the rule.</i></p> <p>Same as 1988 Rule.</p>
<p>MN Effective 10/1/05</p>	<p>[16]: adds before the last sentence: For example, Minnesota’s Professionalism Aspirations provide guidance on best practices in situations typical in the practice of law.</p>
<p>MS Effective 11/3/05</p>	<p>Does not number paragraphs First paragraph – same as former Model Rule [13] Second paragraph – same as former Model Rule [14] but adds new third sentence from end of MR [15] Third paragraph: same as former Model Rule [15] Fourth paragraph: same as MR [18] but deletes “in circumstances” in fourth sentence Fifth paragraph: same as MR [19] Sixth – ninth paragraphs: same as former MR [18] – [21]</p>
<p>MO Effective 7/1/07</p>	<p>[2] Replaces language after “enforcement of the Rule” with “Accordingly, nothing in the Rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty.”</p>
<p>MT Effective 4/1/04</p>	<p>Does not designate separate Scope section. [21], MR [20], last sentence: The fact that a Rule is a <u>provides</u> just basis for a lawyer’s self-assessment by a lawyer of his/her conduct or a basis for sanctioning a lawyer under the administration of a disciplinary authority process <u>process</u> does not imply that an antagonist in a collateral proceeding or transaction <u>opposing party or lawyer</u> has standing to seek enforcement of the Rules <u>in a collateral proceeding or transaction outside of the disciplinary process.</u> Does not include last sentence of MR [20] Does not include MR [21]</p>

<p>NE Effective 9/1/05</p>	<p>[22]: inserts as [22] the language from Model Rule 1.2(b)</p>
<p>NV Effective 5/1/06</p>	<p>Does not adopt</p>
<p>NH Effective 1/1/08</p>	<p>Does not adopt.</p> <p style="text-align: center;">Statement Of Purpose</p> <p><i>The Rules of Professional Conduct constitute the disciplinary standard for New Hampshire lawyers. Together with law and other regulations governing lawyers, the Rules establish the boundaries of permissible and impermissible lawyer conduct. The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the context of legal representation and of law itself. Some of the Rules are imperatives, expressed by the terms "shall" or "shall not". Others, generally expressed by the term "may", are permissive and define areas in which the lawyer may exercise professional judgment.</i></p> <p><i>The Rules are not designed to be a basis for civil liability. The purpose of the Rules can be subverted when the Rules are invoked by opposing parties as procedural weapons. Violation of a Rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. Violation of a Rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer from a position or from pending litigation. Nevertheless, as the Rules establish a standard of conduct for lawyers, a lawyer's violation of a Rule may be evidence of breach of the applicable standard of conduct.</i></p> <p><i>The Rules of Professional Conduct are promulgated and amended by the Supreme Court of the State of New Hampshire with due input from members of the New Hampshire Bar and interested members of the public. Each Rule is published together with the applicable ABA Comment, as adopted by the American Bar Association in conjunction with its Model Rules of Professional Conduct. Preceding the ABA Comment may be found a New Hampshire Comment, which may describe distinctions between the Rule as adopted in New Hampshire and the respective ABA Model Rule. The ABA and New Hampshire Comments are intended to be interpretive, not mandatory. The New Hampshire Comments are provided by the Ethics Committee of the New Hampshire Bar Association.</i></p> <p><i>Lawyers have traditionally aspired to higher standards of professionalism than should be made mandatory in the Rules. Professionalism encompasses civility, competence, conscience, contribution to the quality of the legal system including equal access to the courts, and public service.</i></p> <p style="text-align: center;">New Hampshire Comment</p> <p><i>The Statement of Purpose replaces the ABA Model Preamble and Scope in their entirety. The New Hampshire Supreme Court has not adopted the existing ABA Model Preamble and Scope, so that there is no base text to amend. The NHBA Ethics Committee found that, in both the existing and the proposed ABA Model Preamble and Scope, the following defects exist:</i></p> <p><i>Much of the Preamble and Scope consists of imprecise restatements or summaries of the Rules, which are generally unnecessary, potentially confusing, or both.</i></p>

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	<p><i>It is inappropriate for the Statement of Purpose to attempt to codify when the Rules should or should not be used by disciplinary bodies, or how degrees of punishment for violations should be determined.</i></p> <p><i>Portions of the Preamble and Scope are aspirational in nature, which runs the risk of converting goals into mandates. The Rules will succeed better if the distinction between worthy aspirations and basic mandates is kept clear.</i></p> <p><i>The length and lack of clarity in the wording of the Preamble and Scope materially diminish their utility to their readers.</i></p>
NJ Effective 1/1/04	Does not have
NM Effective 11/2/09	<p>Most first letters of the word “rules” are changed to lowercase;</p> <p>[14] “Comments” is changed to “committee commentaries” in the second to last sentence; in the last sentence “Comments” is subsequently changed to “Commentaries” in several instances throughout the Scope.</p> <p>[17] “Rules 1.6” is replaced with “Rule 16-106 of the Rules of Professional Conduct;” “Rule 1.18” is replaced with “Rule 16-118 of the Rules of Professional Conduct;”</p> <p>[21] “Comment” is changed to “committee commentary” in first sentence; “Comments,” in the beginning of the last sentence, is replaced with “commentaries.”</p>
NY Effective 4/1/09	<p>[1] Adds to end: “The Rules state the minimum level of conduct below which no lawyer can fall without being subject to disciplinary action;”</p> <p>[16] Adds to beginning: “The Rules provide a framework for the ethical practice of law” and deletes last sentence.”</p>
NC Effective 3/1/03	[8] (MR [21]): retained reference to Research Notes.
ND Effective 8/1/06	<p>[1]: same as MR [14]</p> <p>[2]: combines MR [15] and [16]</p> <p>[3]: same as MR [17]</p> <p>Does not have MR [18] and [19]</p> <p>[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.</p> <p>[5]: same as MR [21]</p>
OH	[15]: deletes “and statutes”

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Effective 2/1/07	
OK Effective 1/1/08	<p>[20] Deletes “itself” before “give rise;” deletes sentence: “In addition...litigation;” replaces language after “enforcement of the Rule” with:</p> <p><i>Accordingly, nothing in the Rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty. Moreover, these Rules are not intended to govern or affect judicial application of either the attorney-client or work product privilege. Those privileges were developed to promote compliance with law and fairness in litigation. In reliance on the attorney-client privilege, clients are entitled to expect that communications within the scope of the privilege will be protected against compelled disclosure. The attorney-client privilege is that of the client and not of the lawyer. The fact that in exceptional situations the lawyer under the Rules has limited discretion to disclose a client confidence does not vitiate the proposition that, as a general matter, the client has a reasonable expectation that information relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges. The lawyer’s exercise of discretion not to disclose information under Rule 1.6 should not be subject to reexamination. Permitting such reexamination would be incompatible with the general policy of promoting compliance with law through assurances that communications will be protected against disclosure.</i></p> <p>Adds to end:</p> <p><i>[22] Under the heading Oklahoma Modifications, changes from the ABA Model Rules of Professional Conduct and the related Comments are noted.</i></p>
OR Effective 12/1/06	Does not adopt
PA Effective 7/1/06	<p>combined [15] and [16]; renumbered subsequent comments.</p> <p>[19], MR [20]: did not add new final sentence of MR comment; did not delete old MR last sentence: "Accordingly, nothing in the Rules should be deemed to augment any substantive legal duty of lawyers or the extra disciplinary consequences of violating such a duty."</p> <p>adds as [20]: These Rules were first derived from the Model Rules of Professional Conduct adopted by the American Bar Association in 1983 as amended. Those Rules were subject to thorough review and restatement through the work of the ABA Commission on Evaluation of the Rules of Professional Conduct (“Ethics 2000 Commission”), and have been subject to certain modifications in their adoption in Pennsylvania. The Rules omit some provisions that appear in the ABA Model Rules of Professional Conduct. The omissions should not be interpreted as condoning behavior proscribed by the omitted provision.</p>
RI Effective 4/15/07	Same as MR
SC	numbers the Scope provisions as [1] through [8] rather than [14] through [21]

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Effective 10/1/05	
SD Effective 1/1/04	Does not have
TN Effective 1/1/2011	<p>TN [15-18], [20], [23] are equivalent to MR [14-17], [19], and [21], respectively</p> <p>[19] (MR [18]) Changes after “government lawyers may” in the first sentence to “differ from those of lawyers in private client-lawyer relationships. Certain government lawyers may be authorized to represent several government agencies, officers, or employees in legal controversies in circumstances where a private lawyer could not represent multiple private clients. Government lawyers in Tennessee are also subject to the Open Meetings Act as interpreted by the Tennessee courts. Further, they may have authority to represent the “public interest” in circumstances where a private lawyer would not be authorized to do so.”</p> <p>Replaces language in last sentence with: “These Rules do not abrogate the powers and responsibilities of government lawyers as set forth under federal law or under the Constitution, statutes, or common law of Tennessee;” Adds to end: “The resolution of any conflict between these Rules and the responsibilities or authority of government lawyers under any such legal provisions is a question of law beyond the scope of these Rules;”</p> <p>[21] (MR [20]) replaces language in the last sentence after “Nevertheless” with “in some circumstances, a lawyers’ violation of a Rule may be relevant in determining whether there was a breach of the applicable standard of conduct.”</p> <p>Adds after MR [20] TN [22]:</p> <p style="padding-left: 40px;"><i>Moreover, these Rules are not intended to govern or affect judicial application of either the attorney-client or work product privilege. Those privileges were developed to promote compliance with law and fairness in litigation. In reliance on the attorney-client privilege, clients are entitled to expect that communications within the scope of the privilege will be protected against compelled disclosure. The attorney-client privilege is that of the client and not of the lawyer. The fact that in exceptional situations the lawyer under the Rules has a limited discretion to disclose a client confidence does not vitiate the proposition that, as a general matter, the client has a reasonable expectation that information relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges.</i></p> <p>Adds [24] to end:</p> <p style="padding-left: 40px;"><i>Standard Citation Format: Citations to each Rule of Professional Conduct (“RPC”) shall be in the following format: Tenn. Sup. Ct. R. 8, RPC ____.</i></p>
TX* Effective	*Has not amended Rule since the most recent amendments to the ABA Model Rules

<p>3/1/05</p>	<p>First paragraph:</p> <p><i>10. The Texas Disciplinary Rules of Professional Conduct are rules of reason. The Texas Disciplinary Rules of Professional Conduct define proper conduct for purposes of professional discipline. They are imperatives, cast in the terms shall or shall not. The comments are cast often in the terms of may or should and are permissive, defining areas in which the lawyer has professional discretion. When a lawyer exercises such discretion, whether by acting or not acting, no disciplinary action may be taken. The Comments also frequently illustrate or explain applications of the rules, in order to provide guidance for interpreting the rules and for practicing in compliance with the spirit of the rules. The Comments do not, however, add obligations to the rules and no disciplinary action may be taken for failure to conform to the Comments.</i></p> <p>Paragraph 11 combines MR [2] and [3], but deletes sentence beginning with, “The Comments are sometimes;” adds “and Comments” before “do not, however;”</p> <p>Paragraph 12 (MR [17]): Adds to beginning: “Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so;” deletes “Furthermore;” deletes language after “responsibility” and adds to end of paragraph: “individual circumstances and principles of substantive law external to these rules determine whether a client-lawyer relationship may be found to exist. But there are some duties, such as of that of confidentiality, that may attach before a client-lawyer relationship has been established;”</p> <p>Paragraph 13 (MR [18]) Moves “The responsibilities of government lawyers” to beginning of paragraph; adds as second-to-last sentence: “They also may have authority to represent the public interest in circumstances where a private lawyer would not be authorized to do so;”</p> <p>Does not have MR [19] through [21] but adds instead:</p> <p><i>14. These rules make no attempt to prescribe either disciplinary procedures or penalties for violation of a rule.</i></p> <p><i>15. These rules do not undertake to define standards of civil liability of lawyers for professional conduct. Violation of a rule does not give rise to a private cause of action nor does it create any presumption that a legal duty to a client has been breached. Likewise, these rules are not designed to be standards for procedural decisions. Furthermore, the purpose of these rules can be abused when they are invoked by opposing parties as procedural weapons. The fact that a rule is a just basis for a lawyer’s self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule. Accordingly, nothing in the rules should be deemed to augment any substantive legal duty of lawyers or the extradisciplinary consequences of violating such a duty.</i></p> <p><i>16. Moreover, these rules are not intended to govern or affect judicial application of either the attorney-client or work product privilege. The fact that in exceptional situations the lawyer under the Rules has a limited discretion to disclose a client confidence does not vitiate the proposition that, as a general matter, the client has a reasonable expectation that information</i></p>
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October 21, 2010

	<i>relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges.</i>
UT Effective 11/1/05	Same as MR
VT Effective 9/1/09	<p>[18] Adds before last sentence of paragraph: “They also may have authority to represent the "public interest" in circumstances where a private lawyer would not be authorized to do so;”</p> <p>[20] Deletes “Violation of a Rule...pending litigation” and replaces with: “Whether violation of a rule gives rise to a cause of action or creates a presumption that a legal duty has been breached is a question of substantive law beyond the scope of the rules;” Replaces last sentence with: “Accordingly, nothing in the rules should be deemed to augment or diminish any substantive legal duty of lawyers or the extradisciplinary consequences of violating such a duty.”</p> <p>[21] Adds to end of paragraph: “The “Correlation Tables” in the Annotated Model Rules of Professional Conduct (5th ed. 2003 and subsequent editions), published by the Center for Professional Responsibility of the American Bar Association, provide a comparison with the previous ABA Model Code.”</p>
VA Effective 1/1/04	<p>Did not number paragraphs</p> <p>First paragraph: same as former MR [13]</p> <p>Adds new second paragraph: These Rules follow the same format as the current American Bar Association Model Rules of Professional Conduct (“<i>ABA Model Rules</i>”), rather than the former American Bar Association Model Code of Professional Responsibility (“<i>ABA Model Code</i>”), or the former <i>Virginia Code</i> of Professional Responsibility (“<i>Virginia Code</i>”). Although interpretation of similar language in the <i>ABA Model Rules</i> by other states’ courts and bars might be helpful in understanding Virginia’s Rules, those foreign interpretations should not be binding in Virginia.</p> <p>Third and fourth paragraphs: same as former MR [14] and [15]</p> <p>Fifth paragraph: same as MR [18] but adds “These Rules apply to all lawyers, whether practicing in the private or the public sector. However” to beginning, replaces “state’s attorney” with “commonwealth attorneys” and adds new sixth sentence “They also may have authority to represent the “public interest” in circumstances where a private lawyer would not be authorized to do so.”</p> <p>Sixth paragraph: same as MR [19]</p> <p>Seventh paragraph: same as former MR [18]</p> <p>Eighth paragraph: same as former MR [19] but in fifth sentence adds “either” after “rules has” and “or a limited obligation” after “discretion</p> <p>Ninth paragraph: same as former MR [20]</p> <p>10th paragraph: first sentence same as second sentence of MR [21] and adds “The text of each Rule and the following Terminology section are authoritative and the Comments accompanying each Rule are interpretive.”</p>
WA Effective 9/1/06	<p>[17]: deletes “Furthermore,” replaces remainder of sentence after “attach only” with “the client-lawyer relationship is formed,” adds “add Washington Comment [11] thereto” after “Rule 1.18” and replaces “may be” with “is” in last sentence</p>

	<p>Adds [22]: Nothing in these Rules is intended to change existing Washington law on the use of the Rules of Professional Conduct in a civil action. See <i>Hizey v. Carpenter</i>, 119 Wn.2d 251, 830 P.2d 646 (1992).</p> <p>Adds [23]: The structure of these Rules generally parallels the structure of the American Bar Association’s Model Rules of Professional Conduct. The exceptions to this approach are Rule 1.15A, which varies substantially from Model Rule 1.15, and Rules 1.15B and 5.8, neither of which is found in the Model Rules. In other cases, when a provision has been wholly deleted from the counterpart Model Rule, the deletion is signaled by the phrase “Reserved.” When a provision has been added, it is generally appended at the end of the Rule or the paragraph in which the variation appears. Whenever the text of a Comment varies materially from the text of its counterpart Comment in the Model Rules, the alteration is signaled by the phrase “Washington revision.” Comments that have no counterpart in the Model Rules are compiled at the end of each Comment section under the heading “Additional Washington Comment(s)” and are consecutively numbered. As used herein, the term “former Washington RPC” refers to Washington’s Rules of Professional Conduct (adopted effective September 1, 1985, with amendments through September 1, 2003). The term “Model Rule(s)” refers to the 2004 Edition of the American Bar Association’s Model Rules of Professional Conduct.</p>
<p>WV* Effective 1/1/89</p>	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>[14] Replaces “has discretion...judgement” with “has professional discretion;” Combines [15] and [16] but deletes sentence beginning with, “The Comments are sometimes;” [17] Deletes “See Rule 1.17;” [18] Adds as second-to-last sentence: “They also may have authority to represent the “public interest” in circumstances where a private lawyer would not be authorized to do so;” [20] Deletes sentence beginning with, “In addition;” deletes sentence beginning with “Nevertheless;” adds to end of paragraph: “Accordingly, nothing in the Rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty;” Adds before last paragraph, which is similar to MR [21]:</p> <p style="padding-left: 40px;"><i>Moreover, these Rules are not intended to govern or affect judicial application of either the attorney-client or work product privilege. Those privileges were developed to promote compliance with law and fairness in litigation. In reliance on the attorney-client privilege, clients are entitled to expect that communications within the scope of the privilege will be protected against compelled disclosure. The attorney-client privilege is that of the client and not of the lawyer. The fact that in exceptional situations the lawyer under the Rules has a limited discretion to disclose a client confidence does not vitiate the proposition that, as a general matter, the client has a reasonable expectation that information relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges.</i></p>

	<p><i>The lawyer’s exercise of discretion not to disclose information under Rule 1.6 should not be subject to reexamination. Permitting such reexamination would be incompatible with the general policy of promoting compliance with law through assurances that communications will be protected against disclosure.</i></p> <p>Adds to end of last paragraph: “Research notes were prepared to compare counterparts in the ABA Model Code of Professional Responsibility (adopted 1969, as amended) and to provide selected references to other authorities. The notes have not been adopted, do not constitute part of the Model Rules, and are not intended to affect the application or interpretation of the Rules and Comments.”</p>
WI Effective 7/1/07	[18]: adds to end “Similarly, there are federally recognized Indian tribes with tribal governments in the State of Wisconsin and these tribes have rights of self-government and self-determination. It is not the intent of these rules to abrogate any such authority of tribal governments.”
WY Effective 7/1/06	[15]: includes text of MR [16] [16] – [18]: same as MR [17] – [19] [19], same as MR [20] but changes last sentence: “Nevertheless, since the Rules do establish standards of conduct by lawyers, the Rules may be evidence of the applicable standard of conduct.” [20]: same as MR [21]

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