

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

	WISCONSIN
	<p>Rules as adopted by Wisconsin Supreme Court to be effective 7/1/07.                      Variations from the Model Rules are noted.                      Rules only; Comment comparison included only for Rule 3.8(g) and (h).</p>
Preamble	Identical
Scope	[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.”
Rule 1.0	<p>Adds (ag) "Advanced fee" denotes an amount paid to a lawyer in contemplation of future services, which will be earned at an agreed-upon basis, whether hourly, flat, or another basis. Any amount paid to a lawyer in contemplation of future services whether on an hourly, flat or other basis, is an advanced fee regardless of whether that fee is characterized as an "advanced fee," "minimum fee," "nonrefundable fee," or any other characterization. Advanced fees are subject to the requirements of SCR 20:1.5, SCR 20:1.15(b)(4) or (4m), SCR 20:1.15(e)(4)h., SCR 20:1.15(g), and SCR 20:1.16(d).</p> <p>Adds (b) "Consult" or "consultation" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question.</p> <p>(c): same as MR (b)</p> <p>(d): same as MR (c) but adds to end “including a government entity”</p> <p>Adds (dm) "Flat fee" denotes a fixed amount paid to a lawyer for specific, agreed-upon services, or for a fixed, agreed-upon stage in a representation, regardless of the time required of the lawyer to perform the service or reach the agreed-upon stage in the representation. A flat fee, sometimes referred to as "unit billing," is not an advance against the lawyer's hourly rate and may not be billed against at an hourly rate. Flat fees become the property of the lawyer upon receipt and are subject to the requirements of SCR 20:1.5, SCR 20:1.15(b)(4) or (4m), SCR 20:1.15(e)(4)h., SCR 20:1.15(g), and SCR 20:1.16(d).</p> <p>(e) – (g): same as MR (d) – (f)</p> <p>Adds (h) "Misrepresentation" denotes communication of an untruth, either knowingly or with reckless disregard, whether by statement or omission, which if accepted would lead another to believe a condition exists that does not actually exist.</p> <p>(i) same as MR (g)</p> <p>Adds (j) A "prosecutor" includes a government attorney or special prosecutor (i) in a criminal case, delinquency action, or proceeding that could result in a deprivation of liberty or (ii) acting in connection with the protection of a child or a termination of parental rights proceeding or (iii) acting as a municipal</p>

	<p>prosecutor.</p> <p>(k) – (m): same as MR (h) – (j)</p> <p>Adds (mm) "Retainer" denotes an amount paid specifically and solely to secure the availability of a lawyer to perform services on behalf of a client, whether designated a "retainer," "general retainer," "engagement retainer," "reservation fee," "availability fee," or any other characterization. This amount does not constitute payment for any specific legal services, whether past, present, or future and may not be billed against for fees or costs at any point. A retainer becomes the property of the lawyer upon receipt, but is subject to the requirements of SCR 20:1.5 and SCR 20:1.16(d).</p> <p>(n) – (q): same as MR (k) – (n)</p>
Rule 1.1	Identical
Rule 1.2	<p>(a): adds after "case" in fourth sentence "or any proceeding that could result in deprivation of liberty"</p> <p>Adds (e) When a lawyer has been retained by an insurer to represent an insured pursuant to the terms of an agreement or policy requiring the insurer to retain counsel on the client's behalf, the representation may be limited to matters related to the defense of claims made against the insured. In such cases, the lawyer shall, within a reasonable time after being retained, inform the client in writing of the terms and scope of the representation the lawyer has been retained by the insurer to provide.</p>
Rule 1.3	Identical
Rule 1.4	(a)(4): adds "by the client" after "requests"
Rule 1.5	<p>(b)(1): same as MR (b) but deletes "preferably" in first sentence, adds "as in the past" to end of first sentence, adds new second sentence "If it is reasonably foreseeable that the total cost of representation to the client, including attorney's fees, will be \$1000 or less, the communication may be oral or in writing." and adds "in writing" after "communicated" in third sentence (same as MR second sentence)</p> <p>Adds (b)(2) If the total cost of representation to the client, including attorney's fees, is more than \$1000, the purpose and effect of any retainer or advance fee that is paid to the lawyer shall be communicated in writing.</p> <p>Adds (b)(3) A lawyer shall promptly respond to a client's request for information concerning fees and expenses.</p> <p>(d): adds "a contingent fee" to end</p> <p>(d)(1) in any action affecting the family, including but not limited to divorce, legal separation, annulment, determination of paternity, setting of support and maintenance, setting of custody and physical placement, property division, partition of marital property, termination of parental rights and adoption, provided that nothing herein shall prohibit a contingent fee for the collection of past due amounts of support or maintenance or property division.</p> <p>(d)(2): deletes "a contingent fee" and adds "or any proceeding that could result in deprivation of liberty" to end</p> <p>(e): adds to end "the total fee is reasonable and"</p> <p>(e)(1) the division is based on the services performed by each lawyer, and the client is advised of and does not object to the participation of all the lawyers</p>

	<p>involved and is informed if the fee will increase as a result of their involvement; or</p> <p>(e)(2) the lawyers formerly practiced together and the payment to one lawyer is pursuant to a separation or retirement agreement between them; or</p> <p>(e)(3) pursuant to the referral of a matter between the lawyers, each lawyer assumes the same ethical responsibility for the representation as if the lawyers were partners in the same firm, the client is informed of the terms of the referral arrangement, including the share each lawyer will receive and whether the overall fee will increase, and the client consents in a writing signed by the client.</p>
<p>Rule 1.6</p>	<p>Title: deletes “of Information”</p> <p>(a): replaces “the disclosure is” with “except for disclosures that are” and replaces language after “carry out the representation” with “and except as stated in pars. (b) and (c)”</p> <p>(b) A lawyer shall reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent the client from committing a criminal or fraudulent act that the lawyer reasonably believes is likely to result in death or substantial bodily harm or in substantial injury to the financial interest or property of another.</p> <p>(c): same as MR (b)</p> <p>(c)(1): same as MR (b)(1) but replaces “certain” with “likely”</p> <p>(c)(2) – (5): same as MR (b)(3) – (6)</p>
<p>Rule 1.7</p>	<p>(b)(4): adds “signed by the client” to end</p>
<p>Rule 1.8</p>	<p>Title: has former MR</p> <p>(c): changes first sentence “A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, nor prepare an instrument giving the lawyer or a person related to the lawyer any substantial gift from a client, including a testamentary gift, except where (1) the client is related to the donee, (2) the donee is a natural object of the bounty of the client, (3) there is no reasonable ground to anticipate a contest, or a claim of undue influence or for the public to lose confidence in the integrity of the bar, and (4) the amount of the gift or bequest is reasonable and natural under the circumstances.”</p> <p>(f)(1): adds to end “or the attorney is appointed at government expense; provided that no further consent or consultation need be given if the client has given consent pursuant to the terms of an agreement or policy requiring an organization or insurer to retain counsel on the client's behalf”</p> <p>Adds (h)(3) make an agreement limiting the client's right to report the lawyer's conduct to disciplinary authorities</p> <p>(j): adds “current” before first instance of “client”</p> <p>Adds (j)(1) In this paragraph, "sexual relations" means sexual intercourse or any other intentional touching of the intimate parts of a person or causing the person to touch the intimate parts of the lawyer.</p> <p>Adds (j)(2) When the client is an organization, a lawyer for the organization (whether inside counsel or outside counsel) shall not have sexual relations with a constituent of the organization who supervises, directs or regularly consults with that lawyer concerning the organization's legal matters.</p>

Rule 1.9	(a) and (b)(2): adds “signed by the client” to end
Rule 1.10	Title: has former MR (a): ends paragraph after “unless” (a)(1): remainder of MR (a) Adds (a)(2) the prohibition arises under SCR 20:1.9, and (i) the personally disqualified lawyer performed no more than minor and isolated services in the disqualifying representation and did so only at a firm with which the lawyer is no longer associated; (ii) the personally disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and (iii) written notice is promptly given to any affected former client to enable the affected client to ascertain compliance with the provisions of this rule.
Rule 1.11	Adds (f) The conflicts of a lawyer currently serving as an officer or employee of the government are not imputed to the other lawyers in the agency. However, where such a lawyer has a conflict that would lead to imputation in a nongovernment setting, the lawyer shall be timely screened from any participation in the matter to which the conflict applies.
Rule 1.12	(a): ends paragraph after “neutral” (d): adds to end “in the matter, provided that all parties to the proceeding give informed consent, confirmed in writing”
Rule 1.13	Adds (h) Notwithstanding other provisions of this rule, a lawyer shall comply with the disclosure requirements of SCR 20:1.6(b).
Rule 1.14	Identical
Rule 1.15	Safekeeping property; trust accounts and fiduciary accounts. (a) Definitions. In this section: (1) "Demand account" means an account upon which funds are disbursed through a properly payable instrument. (2) "Fiduciary" means an agent, attorney-in-fact, conservator, guardian, personal representative, special administrator, trustee, or other position requiring the lawyer to safeguard the property of a 3rd party. (3) "Fiduciary account" means an account in which the lawyer deposits fiduciary property. (4) "Fiduciary property" means funds or property of a client or 3rd party that is in the lawyer's possession in a fiduciary capacity that directly arises in the course of, or as a result of, a lawyer-client relationship or an appointment by a court. Fiduciary property includes, but is not limited to, property held as agent, attorney-in-fact, conservator, guardian, personal representative, special administrator, or trustee, subject to the exceptions identified in sub. (k). (5) "Financial institution" means a bank, savings bank, trust company, credit union, savings and loan association, or investment institution, including a brokerage house. (6) "Immediate family member" means the lawyer's spouse, child, stepchild, grandchild, sibling, parent, grandparent, aunt, uncle, niece, or nephew. (7) "Interest of Lawyer Trust Account ("IOLTA")" means a pooled, interest-bearing, demand account, separate from the lawyer's business and personal

	<p>accounts, via which the lawyer deposits, holds, and disburses funds received in trust on behalf of a client or 3rd party, the interest on which does not go to the client. Typical funds that would be placed in an IOLTA account include earnest monies, loan proceeds, settlement proceeds, collection proceeds, cost advances, and advance payments for fees that have not yet been earned. These accounts are subject to the provisions of SCR Chapter 13, Interest on Trust Accounts Program.</p> <p>(8) "Properly payable instrument" means an instrument that, if presented in the normal course of business, is in a form requiring payment pursuant to the laws of this state.</p> <p>(9) "Trust account" means an account in which the lawyer deposits trust property.</p> <p>(10) "Trust property" means funds or property of clients or 3rd parties that is in the lawyer's possession in connection with a representation, which is not fiduciary property.</p> <p>(b) Segregation of trust property.</p> <p>(1) Separate account. A lawyer shall hold in trust, separate from the lawyer's own property, that property of clients and 3rd parties that is in the lawyer's possession in connection with a representation. All funds of clients and 3rd parties paid to a lawyer or law firm in connection with a representation shall be deposited in one or more identifiable trust accounts.</p> <p>(2) Identification of account. Each trust account shall be clearly designated as a "Client Account," a "Trust Account," or words of similar import. The account shall be identified as such on all account records, including signature cards, monthly statements, checks, and deposit slips. An acronym, such as "IOLTA," "IOTA," or "LTAB," without further elaboration, does not clearly designate the account as a client account or trust account.</p> <p>(3) Lawyer funds. No funds belonging to the lawyer or law firm, except funds reasonably sufficient to pay monthly account service charges, may be deposited or retained in a trust account.</p> <p>(4) Unearned fees and cost advances. Except as provided in par. (4m), unearned fees and advanced payments of fees shall be held in trust until earned by the lawyer, and withdrawn pursuant to sub. (g). Funds advanced by a client or 3rd party for payment of costs shall be held in trust until the costs are incurred.</p> <p>(4m) Alternative protection for advanced fees. A lawyer who accepts advanced payments of fees may deposit the funds in the lawyer's business account, provided that a court of competent jurisdiction must ultimately approve the lawyer's fee, or that the lawyer complies with each of the following requirements:</p> <p>a. Upon accepting any advanced payment of fees pursuant to this subsection, the lawyer shall deliver to the client a notice in writing containing all of the following information:</p> <ol style="list-style-type: none"><li>1. the amount of the advanced payment;</li><li>2. the basis or rate of the lawyer's fee;</li><li>3. any expenses for which the client will be responsible;</li></ol>
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	<p>4. that the lawyer has an obligation to refund any unearned advanced fee, along with an accounting, at the termination of the representation;</p> <p>5. that the lawyer is required to submit any dispute about a requested refund of advanced fees to binding arbitration within 30 days of receiving a request for such a refund; and</p> <p>6. the ability of the client to file a claim with the Wisconsin lawyers' fund for client protection if the lawyer fails to provide a refund of unearned advanced fees.</p> <p>b. Upon termination of the representation, the lawyer shall deliver to the client in writing all of the following:</p> <ol style="list-style-type: none"><li>1. a final accounting, or an accounting from the date of the lawyer's most recent statement to the end of the representation, regarding the client's advanced fee payment with a refund of any unearned advanced fees;</li><li>2. notice that, if the client disputes the amount of the fee and wants that dispute to be submitted to binding arbitration, the client must provide written notice of the dispute to the lawyer within 30 days of the mailing of the accounting; and</li><li>3. notice that, if the lawyer is unable to resolve the dispute to the satisfaction of the client within 30 days after receiving notice of the dispute from the client, the lawyer shall submit the dispute to binding arbitration.</li></ol> <p>c. Upon timely receipt of written notice of a dispute from the client, the lawyer shall attempt to resolve that dispute with the client, and if the dispute is not resolved, the lawyer shall submit the dispute to binding arbitration with the State Bar Fee Arbitration Program or a similar local bar association program within 30 days of the lawyer's receipt of the written notice of dispute from the client.</p> <p>d. Upon receipt of an arbitration award requiring the lawyer to make a payment to the client, the lawyer shall pay the arbitration award within 30 days, unless the client fails to agree to be bound by the award of the arbitrator.</p> <p>(6) Trust property other than funds. Unless the client otherwise directs in writing, a lawyer shall keep securities in bearer form in a safe deposit box at a financial institution authorized to do business in Wisconsin. The safe deposit box shall be clearly designated as a "Client Account" or "Trust Account." The lawyer shall clearly identify and appropriately safeguard other property of a client or 3rd party.</p> <p>(7) Multi-jurisdictional practice. If a lawyer also licensed in another state is entrusted with funds or property in connection with a representation in the other state, the provisions of this rule shall not supersede the applicable rules of the other state.</p> <p>(c) Types of trust accounts.</p> <p>(1) IOLTA accounts. A lawyer who receives client funds shall maintain a pooled interest-bearing, demand account for deposit of client or 3rd-party funds that are:</p> <ol style="list-style-type: none"><li>a. nominal in amount or expected to be held for a short period of time; or</li><li>b. not deposited in an account or investment under par. (2); or</li><li>c. not eligible for an account or investment under par. (2), because the client is a corporation or organization not permitted by law to maintain such an account</li></ol>
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	<p>or the terms of the account are not consistent with a need to make funds available without delay.</p> <p>(1m) The interest accruing on an account under par. (1), less any transaction costs, shall be paid to the Wisconsin Trust Account Foundation, Inc., which shall be considered the beneficial owner of the accrued interest, pursuant to SCR Chapter 13, Interest on Trust Accounts Program. A lawyer may notify the client of the intended use of these funds.</p> <p>(2) Other client accounts. A lawyer shall deposit all client funds in an account specified in par. (1) unless the funds are deposited in any of the following:</p> <ul style="list-style-type: none"><li>a. a separate interest-bearing trust account for the particular client or client's matter, the interest on which shall be paid to the client, less any transaction costs;</li><li>b. a pooled interest-bearing trust account with sub-accounting by the financial institution, the lawyer, or the law firm that will provide for computation of interest earned by each client's funds and the payment of the interest to the client, less any transaction costs;</li><li>c. an income-generating investment vehicle selected by the client and designated in specific written instructions from the client or authorized by a court or other tribunal, on which income shall be paid to the client or as directed by the court or other tribunal, less any transaction costs; or</li><li>d. an income generating investment vehicle selected by the lawyer to protect and maximize the return of funds in a bankruptcy estate, which investment vehicle is approved by the trustee in bankruptcy and by a bankruptcy court order, consistent with 11 U.S.C. s. 345; or</li><li>e. a demand deposit or other non-interest-bearing account for funds that are neither nominal in amount nor expected to be held for a short term, if the client specifically so approves.</li></ul> <p>(3) Selection of account. In deciding whether to use the account specified in par. (1) or an account or investment vehicle specified in par. (2), a lawyer shall determine, at the time of the deposit, whether the client funds could be utilized to provide a positive net return to the client by taking into consideration all of the following:</p> <ul style="list-style-type: none"><li>a. the amount of income that the funds would earn during the period the funds are expected to be on deposit;</li><li>b. the cost of establishing and administering the account, including the cost of the lawyer's services and the cost of preparing any tax reports required for income accruing to a client's benefit; and</li><li>c. the capability of financial institutions to calculate and pay interest or other income to individual clients.</li></ul> <p>(4) Professional judgment. The determination whether funds to be invested could be utilized to provide a positive net return to the client rests in the sound judgment of the lawyer or law firm. If a lawyer acts in good faith in making this determination, the lawyer is not subject to any charge of ethical impropriety or other breach of the Rules of Professional Conduct.</p> <p>(5) WisTAF. For accounts created under par. (1), the lawyer or law firm shall direct the financial institution to remit to the Wisconsin Trust Account</p>
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	<p>Foundation, Inc., also known as "WisTAF," at least quarterly, all of the following:</p> <ul style="list-style-type: none"><li>a. the interest or dividends, less any service charges or fees, on the average monthly balance in the account or as otherwise computed in accordance with an institution's standard accounting practice; and</li><li>b. a statement showing the name of the lawyer or law firm for whose account the remittance is sent, the rate of interest applied, the amount of service charges deducted, if any, and the account balance for the period for which the report is made. A copy of the statement shall be provided to the lawyer or law firm.</li></ul> <p>(d) Prompt notice and delivery of property.</p> <p>(1) Notice and disbursement. Upon receiving funds or other property in which a client has an interest, or in which the lawyer has received notice that a 3rd party has an interest identified by a lien, court order, judgment, or contract, the lawyer shall promptly notify the client or 3rd party in writing. Except as stated in this rule or otherwise permitted by law or by agreement with the client, the lawyer shall promptly deliver to the client or 3rd party any funds or other property that the client or 3rd party is entitled to receive.</p> <p>(2) Accounting. Upon final distribution of any trust property or upon request by the client or a 3rd party having an ownership interest in the property, the lawyer shall promptly render a full written accounting regarding the property.</p> <p>(3) Disputes regarding trust property. When the lawyer and another person or the client and another person claim ownership interest in trust property identified by a lien, court order, judgment, or contract, the lawyer shall hold that property in trust until there is an accounting and severance of the interests. If a dispute arises regarding the division of the property, the lawyer shall hold the disputed portion in trust until the dispute is resolved. Disputes between the lawyer and a client are subject to the provisions of sub. (g)(2).</p> <p>(e) Operational requirements for trust accounts.</p> <p>(1) Location. Each trust account shall be maintained in a financial institution that is authorized by federal or state law to do business in Wisconsin and that is located in Wisconsin or has a branch office located in Wisconsin, and which agrees to comply with the overdraft notice requirements of sub. (h).</p> <p>(2) Insurance requirements. Each trust account shall be maintained at a financial institution that is insured by the federal deposit insurance corporation, the national credit union share insurance fund, the Wisconsin credit union savings insurance corporation, the securities investor protection corporation, or any other investment institution financial guaranty insurance.</p> <p>(3) Interest requirements. An interest-bearing trust account shall bear interest at a rate of not less than that applicable to individual accounts of the same type, size, and duration and in which withdrawals or transfers can be made without delay when funds are required, subject only to any notice period that the depository institution is required to observe by law.</p> <p>(4) Prohibited transactions.</p> <ul style="list-style-type: none"><li>a. Cash. No disbursement of cash shall be made from a trust account or from a deposit to a trust account, and no check shall be made payable to "Cash."</li></ul>
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	<p>b. Telephone transfers. No deposits or disbursements shall be made to or from a pooled trust account by a telephone transfer of funds. This section does not prohibit any of the following:</p> <ol style="list-style-type: none"><li>1. wire transfers.</li><li>2. telephone transfers between separate, non-pooled demand and separate, non-pooled, non-demand trust accounts that a lawyer maintains for a particular client.</li></ol> <p>c. Internet transactions. A lawyer shall not make deposits to or disbursements from a trust account by way of an Internet transaction.</p> <p>d. Electronic transfers by 3rd parties. A lawyer shall not authorize a 3rd party to electronically withdraw funds from a trust account. A lawyer shall not authorize a 3rd party to deposit funds into the lawyer's trust account through a form of electronic deposit that allows the 3rd party making the deposit to withdraw the funds without the permission of the lawyer.</p> <p>e. Credit card transactions. A lawyer shall not authorize transactions by way of credit card to or from a trust account. However, earned fees may be deposited by way of credit card to a lawyer's business account.</p> <p>f. Debit card transactions. A lawyer shall not use a debit card to make deposits to or disbursements from a trust account.</p> <p>g. Exception: Collection trust accounts. Upon demonstrating to the office of lawyer regulation that a transaction prohibited by sub. (e)(4)c., e., or f., constitutes an integral part of the lawyer's practice, a lawyer may petition that office for a separate, written agreement, permitting the lawyer to continue to engage in the prohibited transaction, provided the lawyer identifies the excepted account, provides adequate account security, and complies with specific record-keeping and production requirements.</p> <p>h. Exception: Fee and cost advances by credit card, debit card or other electronic deposit. A lawyer may establish a trust account, separate from the lawyer's IOLTA trust account, solely for the purpose of receiving advanced payments of legal fees and costs by credit card, debit card or other electronic deposit, subject to the following conditions:</p> <ol style="list-style-type: none"><li>1. the separate trust account shall be entitled: "Credit Card Trust Account";</li><li>2. lawyer and law firm funds, reasonably sufficient to cover all monthly account fees and charges and, if necessary, any deductions by the financial institution or card issuer from a client's payment by credit card, debit card, or other electronic deposit, shall be maintained in the credit card trust account, and a ledger for account fees and charges shall be maintained;</li><li>3. each payment by credit card, debit card or other electronic deposit, including, if necessary, a reimbursement by the lawyer or law firm for any deduction by the financial institution or card issuer from the gross amount of each payment, shall be transferred from the credit card trust account to the IOLTA trust account immediately upon becoming available for disbursement; and</li><li>4. within 3 business days of receiving actual notice that a chargeback or surcharge has been made against the credit card trust account, the lawyer shall replace any and all funds that have been withdrawn from the credit card trust</li></ol>
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	<p>account by the financial institution or card issuer; and shall reimburse the account for any shortfall or negative balance caused by a chargeback or surcharge. The lawyer shall not accept new payments to the credit card trust account until the lawyer has reimbursed the credit card trust account for the chargeback or surcharge.</p> <p>(5) Availability of funds for disbursement.</p> <p>a. Standard for trust account transactions. A lawyer shall not disburse funds from any trust account unless the deposit from which those funds will be disbursed has cleared, and the funds are available for disbursement.</p> <p>b. Exception: Real estate transactions. In closing a real estate transaction, a lawyer's disbursement of closing proceeds from funds that are received on the date of the closing, but that have not yet cleared, shall not violate sub. (e)(5)a. if those proceeds are deposited no later than the first business day following the closing and are comprised of the following types of funds:</p> <ol style="list-style-type: none"><li>1. a certified check;</li><li>2. a cashier's check, teller's check, bank money order, official bank check or electronic transfer of funds, issued or transferred by a financial institution insured by the federal deposit insurance corporation or a comparable agency of the federal or state government;</li><li>3. a check drawn on the trust account of any lawyer or real estate broker licensed under the laws of any state;</li><li>4. a check issued by the state of Wisconsin, the United States, or a political subdivision of the state of Wisconsin or the United States;</li><li>5. a check drawn on the account of or issued by a lender approved by the federal department of housing and urban development as either a supervised or a nonsupervised mortgagee as defined in 24 C.F.R. s. 202.2;</li><li>6. a check from a title insurance company licensed in Wisconsin, or from a title insurance agent of the title insurance company, if the title insurance company has guaranteed the funds of that title insurance agent;</li><li>7. a non-profit organization check in an amount not exceeding \$5000 per closing if the lawyer has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the trust account; and</li><li>8. a personal check or checks in an aggregate amount not exceeding \$5000 per closing if the lawyer has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the trust account.</li></ol> <p>bm. Without limiting the rights of the lawyer against any person, it shall be the responsibility of the disbursing lawyer to reimburse the trust account for any funds described in sub. (e)(5)b. that are not collected and for any fees, charges, and interest assessed by the financial institution on account of the funds being disbursed before the related deposit has cleared and the funds are available for disbursement. The lawyer shall maintain a subsidiary ledger for funds of the lawyer that are deposited in the trust account to reimburse the account for uncollected funds and to accommodate any fees, charges, and interest.</p> <p>c. Exception: Collection trust accounts. When handling collection work for a client and maintaining a separate trust account to hold funds collected on behalf of that client, a lawyer's disbursement to the client of collection</p>
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	<p>proceeds that have not yet cleared, does not violate sub. (e)(5)a. so long as those collection proceeds have been deposited prior to the disbursement.</p> <p>(6) Record retention. A lawyer shall maintain complete records of trust account funds and other trust property and shall preserve those records for at least 6 years after the date of termination of the representation.</p> <p>(7) Production of records. All trust account records have public aspects related to a lawyer's fitness to practice. Upon request of the office of lawyer regulation, or upon direction of the supreme court, the records shall be submitted to the office of lawyer regulation for its inspection, audit, use, and evidence under any conditions to protect the privilege of clients that the court may provide. The records, or an audit of the records, shall be produced at any disciplinary proceeding involving the lawyer, whenever material. Failure to produce the records constitutes unprofessional conduct and grounds for disciplinary action.</p> <p>(8) Business account. Each lawyer who receives trust funds shall maintain at least one demand account, other than the trust account, for funds received and disbursed other than in the lawyer's trust capacity, which shall be entitled "Business Account," "Office Account," "Operating Account," or words of similar import.</p> <p>(f) Record-keeping requirements for trust accounts.</p> <p>(1) Demand accounts. Complete records of a trust account that is a demand account shall include a transaction register; individual client ledgers; a ledger for account fees and charges, if law firm funds are held in the account pursuant to sub. (b)(3); deposit records; disbursement records; monthly statements; and reconciliation reports, subject to all of the following:</p> <p>a. Transaction register. The transaction register shall contain a chronological record of all account transactions, and shall include all of the following:</p> <ol style="list-style-type: none"><li>1. the date, source, and amount of all deposits;</li><li>2. the date, check or transaction number, payee and amount of all disbursements, whether by check, wire transfer, or other means;</li><li>3. the date and amount of every other deposit or deduction of whatever nature;</li><li>4. the identity of the client for whom funds were deposited or disbursed; and</li><li>5. the balance in the account after each transaction.</li></ol> <p>b. Individual client ledgers. A subsidiary ledger shall be maintained for each client or matter for which the lawyer receives trust funds, and the lawyer shall record each receipt and disbursement of that client's funds and the balance following each transaction. A lawyer shall not disburse funds from the trust account that would create a negative balance with respect to any individual client or matter.</p> <p>c. Ledger for account fees and charges. A subsidiary ledger shall be maintained for funds of the lawyer deposited in the trust account to accommodate monthly service charges. Each deposit and expenditure of the lawyer's funds in the account and the balance following each transaction shall be identified in the ledger.</p> <p>d. Deposit records. Deposit slips shall identify the name of the lawyer or law firm, and the name of the account. The deposit slip shall identify the amount</p>
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of each deposit item, the client or matter associated with each deposit item, and the date of the deposit. The lawyer shall maintain a copy or duplicate of each deposit slip. All deposits shall be made intact. No cash, or other form of disbursement, shall be deducted from a deposit. Deposits of wired funds shall be documented in the account's monthly statement.

e. Disbursement records.

1. Checks. Checks shall be pre-printed and pre-numbered. The name and address of the lawyer or law firm, and the name of the account shall be printed in the upper left corner of the check. Trust account checks shall include the words "Client Account," or "Trust Account," or words of similar import in the account name. Each check disbursed from the trust account shall identify the client matter and the reason for the disbursement on the memo line.

2. Canceled checks. Canceled checks shall be obtained from the financial institution. Imaged checks may be substituted for canceled checks.

3. Imaged checks. Imaged checks shall be acceptable if they provide both the front and reverse of the check and comply with the requirements of this paragraph. The information contained on the reverse side of the imaged checks shall include any endorsement signatures or stamps, account numbers, and transaction dates that appear on the original. Imaged checks shall be of sufficient size to be readable without magnification and as close as possible to the size of the original check.

4. Wire transfers. Wire transfers shall be documented by a written withdrawal authorization or other documentation, such as a monthly statement of the account that indicates the date of the transfer, the payee, and the amount.

f. Monthly statement. The monthly statement provided to the lawyer or law firm by the financial institution shall identify the name and address of the lawyer or law firm and the name of the account.

g. Reconciliation reports. For each trust account, the lawyer shall prepare and retain a printed reconciliation report on a regular and periodic basis not less frequently than every 30 days. Each reconciliation report shall show all of the following balances and verify that they are identical:

1. the balance that appears in the transaction register as of the reporting date;

2. the total of all subsidiary ledger balances for IOLTA accounts and other pooled accounts, determined by listing and totaling the balances in the individual client ledgers and the ledger for account fees and charges, as of the reporting date; and

3. the adjusted balance, determined by adding outstanding deposits and other credits to the balance in the financial institution's monthly statement and subtracting outstanding checks and other deductions from the balance in the monthly statement.

(2) Non-demand accounts. Complete records of a trust account that is a non-demand account shall include all of the following:

a. all monthly or other periodic statements provided by the financial institution to the lawyer or law firm; and

b. all transaction records, including passbooks, records of electronic fund transactions, duplicates of any instrument issued by the financial institution

	<p>from funds held in the account, duplicate deposit slips identifying the source of any deposit, and duplicate withdrawal slips identifying the purpose of any withdrawal.</p> <p>(3) Tangible trust property and bearer securities.</p> <p>a. Property ledger. A lawyer who receives, in trust, tangible personal property or securities in bearer form shall maintain a property ledger that identifies the property, date of receipt, owner, client or matter, and location of the property. The ledger shall also identify the disposition of all of the trust property received by the lawyer.</p> <p>b. Receipt upon taking custody. Upon taking custody, in trust, of any tangible personal property or securities in bearer form, the lawyer shall provide to the previous custodian a signed receipt, with a description of the property and the date of receipt.</p> <p>c. Dispositional receipt. Upon disposition of any tangible personal property or securities in bearer form held in trust, the lawyer shall obtain a signed receipt, with a description of the property and the date of disposition, from the recipient.</p> <p>(4) Electronic record retention.</p> <p>a. Back-up of records. A lawyer who maintains trust account records by computer shall maintain the transaction register, client ledgers, and reconciliation reports in a form that can be reproduced to printed hard copy. Electronic records must be regularly backed up by an appropriate storage device.</p> <p>b. IOLTA account records. In addition to the requirements of sub. (f)(4)a., the transaction register, the subsidiary ledger, and the reconciliation report shall be printed every 30 days for the IOLTA account. The printed copy shall be retained for at least 6 years, as required under sub. (e)(6).</p> <p>(g) Withdrawal of non-contingent fees from trust account.</p> <p>(1) Notice to client. At least 5 business days before the date on which a disbursement is made from a trust account for the purpose of paying fees, with the exception of contingent fees or fees paid pursuant to court order, the lawyer shall transmit to the client in writing all of the following:</p> <p>a. an itemized bill or other accounting showing the services rendered;</p> <p>b. notice of the amount owed and the anticipated date of the withdrawal; and</p> <p>c. a statement of the balance of the client's funds in the lawyer trust account after the withdrawal.</p> <p>(1m) Alternative notice to client. The lawyer may withdraw earned fees on the date that the invoice is transmitted to the client, provided that the lawyer has given prior notice to the client in writing that earned fees will be withdrawn on the date that the invoice is transmitted. The invoice shall include each of the elements required by sub. (g)(1)a., b., and c.</p> <p>(2) Objection to disbursement. If a client makes a particularized and reasonable objection to the disbursement described in sub. (g)(1), the disputed portion shall remain in the trust account until the dispute is resolved. If the client makes a particularized and reasonable objection to a disbursement described in sub. (g)(1) or (1m) within 30 days after the funds have been</p>
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withdrawn, the disputed portion shall be returned to the trust account until the dispute is resolved, unless the lawyer reasonably believes that the client's objections do not present a basis to hold funds in trust or return funds to the trust account under this subsection. The lawyer will be presumed to have a reasonable basis for declining to return funds to trust if the disbursement was made with the client's informed consent, in writing. The lawyer shall promptly advise the client in writing of the lawyer's position regarding the fee and make reasonable efforts to clarify and address the client's objections.

(h) Dishonored instrument notification; (Overdraft notices).  
All demand trust accounts and demand fiduciary accounts are subject to the following provisions on dishonored instrument notification:

(1) Overdraft reporting agreement. A lawyer shall maintain demand trust accounts only in a financial institution that has agreed to provide an overdraft report to the office of lawyer regulation under par. (3).

(2) Identification of accounts subject to this subsection. A lawyer or law firm shall notify the financial institution at the time a trust account or fiduciary account is established that the account is subject to this sub. (h) and shall provide the financial institution with a list of all existing accounts at that institution that are subject to this subsection.

(3) Overdraft report. In the event any properly payable instrument is presented against a lawyer trust account containing insufficient funds, whether or not the instrument is honored, the financial institution shall report the overdraft to the office of lawyer regulation.

(4) Content of report. All reports made by a financial institution under this subsection shall be substantially in the following form:

a. In the case of a dishonored instrument, the report shall be identical to an overdraft notice customarily forwarded to the depositor or investor, accompanied by the dishonored instrument, if a copy is normally provided to the depositor or investor.

b. In the case of instruments that are presented against insufficient funds and are honored, the report shall identify the financial institution involved, the lawyer or law firm, the account number, the date on which the instrument is paid, and the amount of overdraft created by the payment.

(5) Timing of report. A report made under this subsection shall be made simultaneously with the overdraft notice given to the depositor or investor.

(6) Confidentiality of report. A report made by a financial institution under this subsection shall be subject to SCR 22.40, Confidentiality.

(7) Withdrawal of report by financial institution. The office of lawyer regulation shall hold each overdraft report for 10 business days to enable the financial institution to withdraw a report provided by inadvertence or mistake. The deposit of additional funds by the lawyer or law firm shall not constitute reason for withdrawing an overdraft report.

(8) Lawyer compliance. Every lawyer practicing or admitted to practice in Wisconsin shall comply with the reporting and production requirements of this subsection.

(9) Service charges. A financial institution may charge a lawyer or law firm for

	<p>the reasonable costs of producing the reports and records required by this rule.</p> <p>(10) Immunity of financial institution. This subsection does not create a claim against a financial institution or its officers, directors, employees, or agents for failure to provide a trust account overdraft report or for compliance with this subsection.</p> <p>(i) Certification of compliance with trust account rules.</p> <p>(1) Annual requirement. A member of the state bar of Wisconsin shall file with the state bar of Wisconsin annually, with payment of the member's state bar dues or upon any other date approved by the supreme court, a certificate stating whether the member is engaged in the practice of law in Wisconsin. If the member is practicing law, the member shall state the account number of any trust account, and the name of each financial institution in which the member maintains a trust account, a safe deposit box, or both, as required by this section. The state bar shall supply to each member, with the annual dues statement, or at any other time directed by the supreme court, a form on which the certification must be made.</p> <p>(2) Trust account record compliance. Each state bar member shall explicitly certify on the state bar certificate described in par. (1) that the member has complied with each of the record-keeping requirements set forth in subs. (f) and (j)(5).</p> <p>(3) Certification by law firm. A law firm shall file one certificate on behalf of the lawyers in the firm who are required to file a certificate under par. (1). The law firm shall give a copy of the certificate to each lawyer in the firm.</p> <p>(4) Suspension for non-compliance. The failure of a state bar member to file the certificate is grounds for automatic suspension of the member's membership in the state bar in the same manner provided in SCR 10.03(6) for nonpayment of dues. The filing of a false certificate is unprofessional conduct and is grounds for disciplinary action.</p> <p>(j) Fiduciary property.</p> <p>(1) Separate account. A lawyer shall hold in trust, separate from the lawyer's own funds or property, those funds or that property of clients or 3rd parties that are in the lawyer's possession when acting in a fiduciary capacity that directly arises in the course of, or as a result of, a lawyer-client relationship or by appointment of a court.</p> <p>(1m) Other fiduciary accounts. A lawyer shall deposit all fiduciary funds specified in par. (1) in any of the following:</p> <ul style="list-style-type: none"><li>a. a pooled interest-bearing fiduciary account with sub-accounting by the financial institution, the lawyer, or the law firm that will provide for computation of interest earned by each fiduciary entity's funds and the proportionate allocation of the interest to the fiduciary entity, less any transaction costs;</li><li>b. an income-generating investment vehicle, on which income shall be paid to the fiduciary entity or its beneficiary or beneficiaries, less any transaction costs;</li><li>c. an income-generating investment vehicle selected by the lawyer and approved by a court for guardianship funds if the lawyer serves as guardian for</li></ul>
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	<p>a ward under chs. 54 and 881, stats.;</p> <p>d. an income-generating investment vehicle selected by the lawyer to protect and maximize the return on funds in a bankruptcy estate, which investment vehicle is approved by the trustee in bankruptcy and by a bankruptcy court order, consistent with 11 U.S.C. s. 345; or</p> <p>e. a demand deposit or other non-interest bearing account when, in the sound professional judgment of the lawyer, placement in such an account is consistent with the needs and purposes of the fiduciary entity or its beneficiary or beneficiaries.</p> <p>(2) Location. Each fiduciary account shall be maintained in a financial institution as provided by the written authorization of the client, the governing trust instrument, organizational by-laws, an order of a court or, absent such direction, in a financial institution that, in the lawyer's professional judgment, will best serve the needs and purposes of the client or 3rd party for whom the lawyer serves as fiduciary. If a lawyer acts in good faith in making this determination, the lawyer is not subject to any charge of ethical impropriety or other breach of the Rules of Professional Conduct. When the fiduciary property is held in a demand account from which funds are disbursed through a properly payable instrument issued directly by the lawyer or a member or employee of the lawyer's firm and the account is at a financial institution that is not located in Wisconsin or authorized by state or federal law to do business in Wisconsin, the lawyer shall comply with the requirements of sub. (j)(9)b. or c.</p> <p>(3) Prohibited transactions.</p> <p>a. Cash. No disbursement of cash shall be made from a fiduciary account or from a deposit to a fiduciary account, and no check shall be made payable to "Cash."</p> <p>b. Internet transactions. A lawyer shall not make deposits to or disbursements from a fiduciary account by way of an Internet transaction.</p> <p>c. Credit card transactions. A lawyer shall not authorize transactions by way of credit card to or from a fiduciary account.</p> <p>d. Debit card transactions. A lawyer shall not use a debit card to make deposits to or disbursements from a fiduciary account.</p> <p>(4) Availability of funds for disbursement. A lawyer shall not disburse funds from a fiduciary account unless the deposit from which those funds will be disbursed has cleared, and the funds are available for disbursement. However, the exception for real estate transactions under sub. (e)(5)b. shall apply to fiduciary accounts.</p> <p>(5) Records. For each fiduciary account, the lawyer shall retain records of receipts and disbursements as necessary to document the transactions. The lawyer shall maintain all of the following:</p> <p>a. all monthly or other periodic statements provided by the financial institution to the lawyer or law firm; and</p> <p>b. all transaction records, including canceled or imaged checks, passbooks, records of electronic fund transactions, duplicates of any instrument issued by the financial institution from funds held in the account, duplicate deposit slips</p>
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	<p>identifying the source of any deposit, and duplicate withdrawal slips identifying the purpose of any withdrawal.</p> <p>(6) Record retention. A lawyer shall maintain complete records of fiduciary accounts and other fiduciary property during the course of the fiduciary relationship. A lawyer shall maintain a complete record of the fiduciary account for the 6 most recent years of the account's existence and shall maintain, at a minimum, a summary accounting of the fiduciary account for prior years of the account's existence. After the termination of the fiduciary relationship, the lawyer shall preserve complete records for at least 6 years.</p> <p>(7) Production of records. All fiduciary account records have public aspects related to a lawyer's fitness to practice. Upon request of the office of lawyer regulation, or upon direction of the supreme court, the records shall be submitted to the office of lawyer regulation for its inspection, audit, use, and evidence under any conditions to protect the privilege of clients that the court may provide. The records, or an audit of the records, shall be produced at any disciplinary proceeding involving the lawyer, whenever material. Failure to produce the records constitutes unprofessional conduct and grounds for disciplinary action.</p> <p>(8) Tangible fiduciary property and bearer securities.</p> <p>a. Property ledger. A lawyer who, as a fiduciary, receives tangible personal property or securities in bearer form shall maintain a property ledger that identifies the property, date of receipt, owner, and location of the property. The ledger shall also identify the disposition of all such fiduciary property received by the lawyer.</p> <p>b. Receipt upon taking custody. Upon taking custody, as a fiduciary, of any tangible personal property or securities in bearer form, the lawyer shall provide to the previous custodian a signed receipt, with a description of the property, and the date of receipt.</p> <p>c. Dispositional receipt. Upon disposition of any tangible personal property or securities in bearer form held by the lawyer as a fiduciary, the lawyer shall obtain a signed receipt, with a description of the property and the date of disposition, from the recipient.</p> <p>(9) Dishonored instrument notification or alternative protection. A lawyer who holds fiduciary property in a demand account from which funds are disbursed through a properly payable instrument issued directly by the lawyer or a member or employee of the lawyer's firm shall take one of the following actions:</p> <p>a. comply with the requirements of sub. (h) dishonored instrument notification (overdraft notices); or</p> <p>b. have the account independently audited by a certified public accountant on at least an annual basis; or</p> <p>c. hold the funds in a demand account, which requires the approving signature of a co-trustee, co-agent, co-guardian, or co-personal representative before funds may be disbursed from the account.</p> <p>(10) Certification requirements. Funds held by a lawyer in a fiduciary account shall comply with the certification requirements of sub. (i).</p>
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	<p>(k) Exceptions to this section.  This rule does not apply in any of the following instances in which a lawyer is acting in a fiduciary capacity:</p> <p>(1) the lawyer is serving as a bankruptcy trustee, subject to the oversight and accounting requirements of the bankruptcy court;</p> <p>(2) the property held by the lawyer when acting in a fiduciary capacity is property held for the benefit of an "immediate family member" of the lawyer;</p> <p>(3) the lawyer is serving in a fiduciary capacity for a civic, fraternal, or non-profit organization that is not a client and has other officers or directors participating in the governance of the organization; or</p> <p>(4) the lawyer is acting in the course of the lawyer's employment by an employer not itself engaged in the practice of law, provided that the lawyer's employment is not ancillary to the lawyer's practice of law.</p>
Rule 1.16	Identical
Rule 1.17	Identical
Rule 1.18	Identical
Rule 2.1	Identical
Rule 2.2	Identical
Rule 2.3	Identical
Rule 2.4	Identical
Rule 3.1	<p>(a) In representing a client, a lawyer shall not:</p> <p>(1) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law;</p> <p>(2) knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or</p> <p>(3) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when the lawyer knows or when it is obvious that such an action would serve merely to harass or maliciously injure another.</p> <p>(b): Same as second sentence of MR but replaces "incarceration" with "deprivation of liberty"</p>
Rule 3.2	Identical
Rule 3.3	(c): deletes "continue to the conclusion of the proceeding, and"
Rule 3.4	Identical
Rule 3.5	(b): adds to end "or for scheduling purposes if permitted by the court. If communication between a lawyer and judge has occurred in order to schedule the matter, the lawyer involved shall promptly notify the lawyer for the other party or the other party, if unrepresented, of such communication"
Rule 3.6	<p>Adds (b) A statement referred to in par. (a) ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in deprivation of liberty, and the statement relates to:</p> <p>(1) the character, credibility, reputation or criminal record of a party, suspect</p>

	<p>in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;</p> <p>(2) in a criminal case or proceeding that could result in deprivation of liberty, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;</p> <p>(3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;</p> <p>(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in deprivation of liberty;</p> <p>(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial; or</p> <p>(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.</p> <p>(c): same as MR (b) but adds “and (b)(1) through (5)” after “(a)”</p> <p>(c)(1) – (7): same as MR (b)(1) – (7)</p> <p>(d): same as MR (c) but adds “likelihood of” after “substantial”</p> <p>(e): same as MR (d)</p>
<p>Rule 3.7</p>	<p>Identical</p>
<p>Rule 3.8</p> <p><i>(g) and (h)</i></p> <p><i>effective</i></p> <p><i>7/1/09</i></p>	<p>Does not have MR first paragraph</p> <p>(a): replaces “refrain from prosecuting” with “A prosecutor in a criminal case or a proceeding that could result in deprivation of liberty shall not prosecute”</p> <p>(b) When communicating with an unrepresented person in the context of an investigation or proceeding, a prosecutor shall inform the person of the prosecutor's role and interest in the matter.</p> <p>(c) When communicating with an unrepresented person who has a constitutional or statutory right to counsel, the prosecutor shall inform the person of the right to counsel and the procedures to obtain counsel and shall give that person a reasonable opportunity to obtain counsel.</p> <p>(d) When communicating with an unrepresented person a prosecutor may discuss the matter, provide information regarding settlement, and negotiate a resolution which may include a waiver of constitutional and statutory rights, but a prosecutor, other than a municipal prosecutor, shall not:</p> <p>(1) otherwise provide legal advice to the person, including, but not limited to whether to obtain counsel, whether to accept or reject a settlement offer, whether to waive important procedural rights or how the tribunal is likely to rule in the case, or</p> <p>(2) assist the person in the completion of (i) guilty plea forms (ii) forms for the waiver of a preliminary hearing or (iii) forms for the waiver of a jury trial.</p> <p>(e): adds “A prosecutor shall” to beginning and deletes “criminal”</p> <p>(f) A prosecutor, other than a municipal prosecutor, in a criminal case or a proceeding that could result in deprivation of liberty shall:</p> <p>(f)(1): same as MR (d)</p>

	<p>(f)(2) same as MR (f) but deletes language before “exercise” and “or this Rule” from end</p> <p><b>**Updated July 2009**:</b>          Adopted slightly modified ABA Model Rule 3.8(g) and (h) (as of August 2009):          (g) WI Rule changes “shall” to “shall do all of the following:”              (i) Changes “promptly disclose” to “promptly make reasonable efforts to disclose”              (iii) Adds “make reasonable efforts to” before “undertake;” deletes “make reasonable efforts to” before “cause.”</p> <p>Comments:          [The following Comments to SCR 20:3.8(g) and (h) are not adopted, but will be published and may be consulted for guidance in interpreting and applying the Wisconsin Rules of Professional Conduct for Attorneys (Supreme Court of Wisconsin Order No. 08-24, filed June 17, 2009)]</p> <p style="text-align: center;"><b>“Wisconsin Comment</b>          Wisconsin prosecutors have long embraced the notion that the duty to do justice requires both holding offenders accountable and protecting the innocent. New Rule 20: 3.8 (g) and (h) reinforces this notion. The Wisconsin rule differs slightly from the new A.B.A. rule to recognize limits in the investigative resources of Wisconsin prosecutors.          This rule was not designed to address significant changes in the law that might affect the incarceration status of a number of prisoners, such as where a statute is declared unconstitutional.”</p> <p style="text-align: center;"><b>ABA Comments [7], [8], [9]</b></p>
Rule 3.9	Identical
Rule 4.1	<p>(a): same as MR first paragraph          (a)(1) and (2): same as MR (a) and (b)          Adds (b) Notwithstanding par. (a), SCR 20:5.3(c)(1), and SCR 20:8.4, a lawyer may advise or supervise others with respect to lawful investigative activities.</p>
Rule 4.2	Identical
Rule 4.3	In first sentence, replaces language after “shall” with “inform such person of the lawyer’s role in the matter”
Rule 4.4	Identical
Adds Rule 4.5	<p>Guardians ad litem          A lawyer appointed to act as a guardian ad litem or as an attorney for the best interests of an individual represents, and shall act in, the individual's best interests, even if doing so is contrary to the individual's wishes. A lawyer so appointed shall comply with the Rules of Professional Conduct that are consistent with the lawyer's role in representing the best interests of the individual rather than the individual personally.</p>
Rule 5.1	Identical
Rule 5.2	Identical
Rule 5.3	Identical
Rule 5.4	Identical

Rule 5.5	Has former MR
Rule 5.6	Identical
Rule 5.7	<p>Does not have MR</p> <p>Adds Limited liability legal practice</p> <p>(a)(1) A lawyer may be a member of a law firm that is organized as a limited liability organization solely to render professional legal services under the laws of this state, including chs. 178 and 183 and subch. XIX of ch. 180. The lawyer may practice in or as a limited liability organization if the lawyer is otherwise licensed to practice law in this state and the organization is registered under sub. (b).</p> <p>(2) Nothing in this rule or the laws under which the lawyer or law firm is organized shall relieve a lawyer from personal liability for any acts, errors or omissions of the lawyer arising out of the performance of professional services.</p> <p>(b) A lawyer or law firm that is organized as a limited liability organization shall file an annual registration with the state bar of Wisconsin in a form and with a filing fee that shall be determined by the state bar. The annual registration shall be signed by a lawyer who is licensed to practice law in this state and who holds an ownership interest in the organization seeking to register under this rule. The annual registration shall include all of the following:</p> <ol style="list-style-type: none"> <li>(1) The name and address of the organization.</li> <li>(2) The names, residence addresses, states or jurisdictions where licensed to practice law, and attorney registration numbers of the lawyers in the organization and their ownership interest in the organization.</li> <li>(3) A representation that at the time of the filing each lawyer in the organization is in good standing in this state or, if licensed to practice law elsewhere, in the states or jurisdictions in which he or she is licensed.</li> <li>(4) A certificate of insurance issued by an insurance carrier certifying that it has issued to the organization a professional liability policy to the organization as provided in sub. (bm).</li> <li>(5) Such other information as may be required from time to time by the state bar of Wisconsin.</li> </ol> <p>(bm) The professional liability policy under sub. (b)(4) shall identify the name of the professional liability carrier, the policy number, the expiration date and the limits and deductible. Such professional liability insurance shall provide not less than the following limits of liability:</p> <ol style="list-style-type: none"> <li>(1) For a firm composed of 1 to 3 lawyers, \$100,000 of combined indemnity and defense cost coverage per claim, with a \$300,000 aggregate combined indemnity and defense cost coverage amount per policy period.</li> <li>(2) For a firm composed of 4 to 6 lawyers, \$250,000 of combined indemnity and defense cost coverage per claim, with \$750,000 aggregate combined indemnity and defense cost coverage amount per policy period.</li> <li>(3) For a firm composed of 7 to 14 lawyers, \$500,000 of combined indemnity and defense cost coverage per claim, with \$1,000,000 aggregate combined indemnity and defense cost coverage amount per policy period.</li> </ol>

	<p>(4) For a firm composed of 15 to 30 lawyers, \$1,000,000 of combined indemnity and defense cost coverage per claim, with \$2,000,000 aggregate combined indemnity and defense cost coverage amount per policy period.</p> <p>(5) For a firm composed of 31 to 50 lawyers, \$4,000,000 of combined indemnity and defense cost coverage per claim, with \$4,000,000 aggregate combined indemnity and defense cost coverage amount per policy period.</p> <p>(6) For a firm composed of 51 or more lawyers, \$10,000,000 of combined indemnity and defense cost coverage per claim, with \$10,000,000 aggregate combined indemnity and defense cost coverage amount per policy period.</p> <p>(c) Nothing in this rule or the laws under which a lawyer or law firm is organized shall diminish a lawyer's or law firm's obligations or responsibilities under any provisions of this chapter.</p> <p>(d) A law firm that is organized as a limited liability organization under the laws of any other state or jurisdiction or of the United States solely for the purpose of rendering professional legal services that is authorized to do business in Wisconsin and that has a least one lawyer licensed to practice law in Wisconsin may register under this rule by complying with the provisions of sub. (b).</p> <p>(e) A lawyer or law firm that is organized as a limited liability organization shall do all of the following:</p> <p>(1) Include a written designation of the limited liability structure as part of its name.</p> <p>(2) Provide to clients and potential clients in writing a plain-English summary of the features of the limited liability law under which it is organized and the applicable provisions of this chapter.</p>
Rule 6.1	Identical
Rule 6.2	Identical
Rule 6.3	Identical
Rule 6.4	Identical
Rule 6.5	(a): adds “a bar association, an accredited law school” after “organization”
Rule 7.1	<p>Has former MR</p> <p>Adds (d) contains any paid testimonial about, or paid endorsement of, the lawyer without identifying the fact that payment has been made or, if the testimonial or endorsement is not made by an actual client, without identifying that fact.</p>
Rule 7.2	<p>(b)(4)(ii) the client gives informed consent;</p> <p>Adds (b)(4)(iii) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and</p> <p>Adds (b)(4)(iv) information relating to representation of a client is protected as required by SCR 20:1.6.</p>
Rule 7.3	<p>Adds (b)(1) the lawyer knows or reasonably should know that the physical, emotional or mental state of the person makes it unlikely that the person would exercise reasonable judgment in employing a lawyer; or</p> <p>(b)(2) and (3): same as MR (b)(1) and (2)</p>

	<p>(c): adds “printed” before second instance of “recorded” and “and a copy of it shall be filed with the office of lawyer regulation within five days of its dissemination” to end</p> <p>Adds (e) Except as permitted under SCR 11.06, a lawyer, at his or her instance, shall not draft legal documents, such as wills, trust instruments or contracts, which require or imply that the lawyer's services be used in relation to that document.</p>
Rule 7.4	Title: has former MR
Rule 7.5	Identical
Rule 7.6	Identical
Rule 8.1	Identical
Rule 8.2	Identical
Rule 8.3	<p>(c) If the information revealing misconduct under subs. (a) or (b) is confidential under SCR 20:1.6, the lawyer shall consult with the client about the matter and abide by the client's wishes to the extent required by SCR 20:1.6.</p> <p>Adds (d) This rule does not require disclosure of any of the following:</p> <p>(1) Information gained by a lawyer while participating in a confidential lawyers' assistance program.</p> <p>(2) Information acquired by any person selected to mediate or arbitrate disputes between lawyers arising out of a professional or economic dispute involving law firm dissolutions, termination or departure of one or more lawyers from a law firm where such information is acquired in the course of mediating or arbitrating the dispute between lawyers.</p>
Rule 8.4	<p>Does not have MR (d)</p> <p>(d) and (e): same as MR (e) and (f)</p> <p>Adds (f) violate a statute, supreme court rule, supreme court order or supreme court decision regulating the conduct of lawyers;</p> <p>Adds (g) violate the attorney's oath;</p> <p>Adds (h) fail to cooperate in the investigation of a grievance filed with the office of lawyer regulation as required by SCR 21.15(4), SCR 22.001(9)(b), SCR 22.03(2), SCR 22.03(6), or SCR 22.04(1); or</p> <p>Adds (i) harass a person on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual preference or marital status in connection with the lawyer's professional activities. Legitimate advocacy respecting the foregoing factors does not violate par. (i).</p>
Rule 8.5	<p>(a): in first sentence replaces “practice in this jurisdiction” with “the bar of this state” and second instance of “jurisdiction” with “state;” in second sentence replaces “in this jurisdiction” with “to the bar of this state” and remaining instances of “jurisdiction” with “state” and in third sentence replaces first instance of “jurisdiction” with “state”</p> <p>(b): replaces “jurisdiction” with “state”</p>

As of October 14, 2009

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