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

<table>
<thead>
<tr>
<th>NORTH CAROLINA</th>
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<tbody>
<tr>
<td>As approved by the North Carolina Supreme Court to be effective March 1, 2003. Rule 1.13 amended as of 3/2/06. Variations from the Model Rules are noted. Rules only; Comment comparison not included.</td>
</tr>
</tbody>
</table>

*Amendments effective September 24, 2015

** Highlight indicates adoption of Ethics 20-20 Commission August 2012 and February 2013 Rule amendment(s): black-letter or Comment.

| Preamble | Inserted three new paragraphs between MR Comments [6] and [7]: [7] A lawyer should render public interest legal service and provide civic leadership. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, society, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means. [8] The legal profession is a group of people united in a learned calling for the public good. At their best, lawyers assure the availability of legal services to all, regardless of ability to pay, and as leaders of their communities, states, and nation, lawyers use their education and experience to improve society. It is the basic responsibility of each lawyer to provide community service, community leadership, and public interest legal services without fee, or at a substantially reduced fee, in such areas as poverty law, civil rights, public rights law, charitable organization representation, and the administration of justice. [9] The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer. Personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in, or otherwise support, the provision of legal services to the disadvantaged. The provision of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer as well as the profession generally, but the efforts of individual lawyers are often not enough to meet the need. Thus the profession and government instituted additional programs to provide legal services. Accordingly, legal aid offices, lawyer referral services, and other related programs were developed, and programs will be developed by the profession and the government. Every lawyer should support all proper efforts to meet this need for legal services. [15] (MR [12]): left out reference to self-government in the second half of the first sentence and combines first and second sentences: "The legal profession’s relative autonomy carries with it a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self- |

Updated March 29, 2017
### Rule 1.0

**Scope**


**Rule 1.0**

* Amendment effective September 22, 2016

"Confidential information": definition included "denotes information described in Rule 1.6."

"Informed consent": deleted last phrase ("about the material risks of and reasonably available alternatives to the proposed course of conduct") and replaced it with: "appropriate to the circumstances."

"Tribunal": "may render a binding judgment..." rather than "... will render...";

Adds sentence after first sentence that reads “The term encompasses any proceeding conducted in the course of a trial or litigation, or conducted pursuant to the tribunal’s rules of civil or criminal procedure or other relevant rules of the tribunal, such as deposition, arbitration, or mediation.”

(h) is MR (g)- changes “partner” to “principal”; adds “for the practice of law” after “partnership”; adds to end: “or a lawyer having management authority over the legal department of a company, organization, or government entity.”

(n) Adds second sentence: “The term encompasses any proceeding conducted in the course of a trial or litigation, or conducted pursuant to the tribunal’s rules of civil or criminal procedure or other relevant rules of the tribunal, such as a deposition, arbitration or mediation.”

(o) similar to MR (n): Adds “and any data embedded therein (commonly referred to as metadata) after “representation”

### Rule 1.1

**Rule 1.1**

* Amendment effective October 2, 2014

Replaced first sentence with: "A lawyer shall not handle a legal matter that the lawyer knows or should know he or she is not competent to handle without associating with a lawyer who is competent to handle the matter."

### Rule 1.2

**Rule 1.2**

(a): created subparagraphs, adding these provisions:

(2) A lawyer does not violate this rule by acceding to reasonable requests of opposing counsel which do not prejudice the rights of his or her a client, or by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.

(3) In the representation of a client, a lawyer may exercise his or her professional judgment to waive or fail to assert a right or position of the client."

(c): deleted "and the client gives informed consent."

### Rule 1.3

Identical

### Rule 1.4

(a)(1) Replaces Rule 1.0(e) with 1.0(f)

### Rule 1.5

(a): substituted "an illegal or clearly excessive fee" and "a clearly excessive amount for expenses for "an unreasonable fee" and "an unreasonable amount for expenses."

(b): begins with "When the lawyer has not regularly represented the client" rather than putting that idea at the end of the first sentence. Deleted the last sentence regarding changes in the basis or rate.

(d)(1) and (2): order reversed. In (d)(1), regarding a criminal defendant, added
"...; however, a lawyer may charge and collect a contingent fee for representation in a criminal or civil asset forfeiture proceeding if not otherwise prohibited by law."

(d)(2), instead of referring to domestic relations matters, has this provision: "a contingent fee in a civil case in which such a fee is prohibited by law."

Added new (f):
Any lawyer having a dispute with a client regarding a fee for legal services must:
(1) make reasonable efforts to advise his or her client of the existence of the North Carolina State Bar’s program of fee dispute resolution at least 30 days prior to initiating legal proceedings to collect the disputed fee; and  
(2) participate in good faith in the fee dispute resolution process if the client submits a proper request.

### Rule 1.6
*Amendment effective October 2, 2014

(a):  in place of "information related to the representation of a client" uses "information acquired during the professional relationship with a client"
(b): has the provisions in a different order, but included MR (b)(1) - (4) with only one variation. In the equivalent of (b)(4), added reference to the Rules of Professional Conduct, as well as law or court order.
Also included two other provisions in (b): "to prevent the commission of a crime by the client" and "to comply with the rules of a lawyers' or judges' assistance program approved by the NCSB or the NC Supreme Court."

(b)(8) identical to MR (b)(7) adds (d): The duty of confidentiality described in this Rule encompasses information received by a lawyer then acting as an agent of a lawyers’ or judges’ assistance program approved by the North Carolina State Bar or the North Carolina Supreme Court regarding another lawyer or judge seeking assistance or to whom assistance is being offered. For the purposes of this Rule, “client” refers to lawyers seeking assistance from lawyers’ or judges’ assistance programs approved by the North Carolina State Bar or the North Carolina Supreme Court."

### Rule 1.7

### Rule 1.8

(i)(1): included at the end "provided the requirements of Rule 1.8(a) are satisfied."

(i)(2): included at the end "except as prohibited by Rule 1.5."

Did not adopt (j) on sex with clients but have Rule 1.19 on client-lawyer sexual relationships.

### Rule 1.9

### Rule 1.10

(a): include a reference to prohibitions under Rule 6.6, Action as a Public Official.

(e): include screening as proposed by E2k but delete in (c)(1) the qualification that the lawyer is to receive no portion of the fee. Include the E2k proposed comments on screening without the qualification regarding the fee. Adds this sentence in [7]: However, Rule 8.4(c) prohibits the screened lawyer from participating in the fee if such participation was impliedly or explicitly offered as an inducement to the lawyer to become associated with the firm.

### Rule 1.11

Proposed the version of 1.11 from the August 2001 report to the HOD. references to apportionment of the fee are deleted.

### Rule 1.12

Deleted reference to apportionment of the fee in (c)(1).
Rule 1.13 | (c): has former MR but adds “reveal such information outside the organization to the extent permitted by Rule 1.6 and may” after “the lawyer may”  
(e): replaces “either of these paragraphs” with “these Rules”

Rule 1.14

Rule 1.15

*Amendment effective Oct. 23, 2015

This rule has four subparts: Rule 1.15–1, Definitions; Rule 1.15–2, General Rules; Rule 1.15–3, Records and Accountings; and Rule 1.15–4, Trust Account Management in Multiple-Lawyer Firm. The subparts set forth the requirements for preserving client property, including the requirements for preserving client property in a lawyer’s trust account. The comment for all four subparts as well as the annotations appear after the text for Rule 1.15–4.

**Rule 1.15-1 Definitions**

For purposes of this Rule 1.15, the following definitions apply:

(a) "Bank" denotes a bank, savings and loan association, or credit union chartered under North Carolina or federal law.

(b) "Client" denotes a person, firm, or other entity for whom a lawyer performs, or is engaged to perform, any legal services.

(c) "Dedicated trust account" denotes a trust account that is maintained for the sole benefit of a single client or with respect to a single transaction or series of integrated transactions.

(d) "Entrusted property" denotes trust funds, fiduciary funds and other property belonging to someone other than the lawyer which is in the lawyer's possession or control in connection with the performance of legal services or professional fiduciary services.

(e) "Fiduciary account" denotes an account, designated as such, maintained by a lawyer solely for the deposit of fiduciary funds or other entrusted property of a particular person or entity.

(f) "Fiduciary funds" denotes funds belonging to someone other than the lawyer that are received by or placed under the control of the lawyer in connection with the performance of professional fiduciary services.

(g) "Funds" denotes any form of money, including cash, payment instruments such as checks, money orders, or sales drafts, and receipts from electronic fund transfers.

(h) "General trust account" denotes any trust account other than a dedicated trust account.

(i) "Instrument" denotes an instrument under the Uniform Commercial Code, a payment item or advice accepted for credit by a bank, or a requisition or order for the electronic transfer of funds.

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

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

(l) "Trust account" denotes an account, designated as such, maintained by a lawyer for the deposit of trust funds.
(m) "Trust funds" denotes funds belonging to someone other than the lawyer that are received by or placed under the control of the lawyer in connection with the performance of legal services.

**Rule 1.15-2 General Rules**

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

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

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

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

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

(f) Funds in Accounts. A trust or fiduciary account may only hold entrusted property. Third party funds that are not received by or placed under the control of the lawyer in connection with the performance of legal services or professional fiduciary services may not be deposited or maintained in a trust or fiduciary account. Additionally, no funds belonging to the lawyer shall be deposited or maintained in a trust or fiduciary account of the lawyer except:

1. funds sufficient to open or maintain an account, pay any bank service charges, or pay any tax levied on the account; or
2. funds belonging in part to a client or other third party and in part currently or conditionally to the lawyer.

(g) Mixed Funds Deposited Intact. When funds belonging to the lawyer are received in combination with funds belonging to the client or other persons, all of the funds shall be deposited intact. The amounts currently or conditionally belonging to the lawyer shall be identified on the deposit slip or other record. After the deposit has been finally credited to the account, the lawyer shall withdraw the amounts to which the lawyer is or becomes entitled. If the lawyer's
entitlement is disputed, the disputed amounts shall remain in the trust account or fiduciary account until the dispute is resolved.

(h) Items Payable to Lawyer. Any item drawn on a trust account or fiduciary account for the payment of the lawyer’s fees or expenses shall be made payable to the lawyer and shall indicate on the item by client name, file number, or other identifying information the client from whose balance the item is drawn. Any item that does not include this information may not be used to withdraw funds from a trust account or fiduciary account for the payment of the lawyer’s fees or expenses.

(i) No Bearer Items. No item shall be drawn on a trust account or fiduciary account made payable to cash or bearer and no cash shall be withdrawn from a trust account or fiduciary account by any means.

(j) Debit Cards Prohibited. Use of a debit card to withdraw funds from a general or dedicated trust account or a fiduciary account is prohibited.

(k) No Benefit to Lawyer or Third Party. A lawyer shall not use or pledge any entrusted property to obtain credit or other personal benefit for the lawyer or any person other than the legal or beneficial owner of that property.

(l) Bank Directive. Every lawyer maintaining a trust account or fiduciary account at a bank shall file with the bank a written directive requiring the bank to report to the executive director of the North Carolina State Bar when an instrument drawn on the account is presented for payment against insufficient funds. No trust account or fiduciary account shall be maintained in a bank that does not agree to make such reports.

(o) Notification of Receipt. A lawyer shall promptly notify his or her client of the receipt of any entrusted property belonging in whole or in part to the client.

(p) Duty to Report Misappropriation. A lawyer who discovers or reasonably believes that entrusted property has been misappropriated or misapplied shall promptly inform the Trust Account Compliance Council (TACC) in the North Carolina State Bar Office of Council. Discovery of intentional theft or fraud must be reported to the TACC immediately. When an accounting or bank error results in an unintentional and inadvertent use of one client’s trust funds to pay the obligations of another client, the event must be reported unless the misapplication is discovered and rectified on or before the next quarterly reconciliation required by Rule 1.15-3(d)(1). This rule requires disclosure of information otherwise protected by Rule 1.6 if necessary to report the misappropriation or misapplication.

(q) Interest on Deposited Funds. Except as authorized by Rule 1.15-4, any interest earned on a trust account or fiduciary account, less any amounts deducted for bank service charges and taxes, shall belong to the client or other person or entity entitled to the corresponding principal amount. Under no circumstances shall the lawyer be entitled to any interest earned on funds deposited in a trust account or fiduciary account.

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

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<th>Rule 1.15-3 Records and Accountings</th>
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<tr>
<td>(a) Check Format. All general trust accounts, dedicated trust accounts, and fiduciary accounts must use business-size checks that contain an Auxiliary On-Us field in the MICR line of the check.</td>
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<td>(b) Minimum Records for Accounts at Banks. The minimum records required for general trust accounts, dedicated trust accounts, and fiduciary accounts maintained at a bank shall consist of the following:</td>
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<td>(1) all records listing the source and date of receipt of any funds deposited in the account including, but not limited to, bank receipts, deposit slips and wire and electronic transfer confirmations, and, in the case of a general trust account, all records also listing the name of the client or other person to whom the funds belong;</td>
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<td>(2) all canceled checks or other items drawn on the account, or digital images thereof furnished by the bank, showing the amount, date, and recipient of the disbursement, and, in the case of a general trust account, the client name, file number, or other identifying information of the client from whose balance each item is drawn, provided, that:</td>
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<tr>
<td>(A) digital images must be legible reproductions of the front and back of the original items with no more than six images per page and no images smaller than 1-3/16 x 3 inches; and</td>
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<td>(B) the bank must maintain, for at least six years, the capacity to reproduce electronically additional or enlarged images of the original items or records related thereto upon request within a reasonable time.</td>
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<td>(3) all instructions or authorizations to transfer, disburse, or withdraw funds from the trust account (including electronic transfers or debits), or a written or electronic record of any such transfer, disbursement, or withdrawal showing the amount, date, and recipient of the transfer or disbursement, and, in the case of a general trust account, also showing the name of the client or other person to whom the funds belong;</td>
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<td>(4) all bank statements and other documents received from the bank with respect to the trust account, including, but not limited to notices of return or dishonor of any item drawn on the account against insufficient funds;</td>
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(5) in the case of a general trust account, a ledger containing a record of receipts and disbursements for each person or entity from whom and for whom funds are received and showing the current balance of funds held in the trust account for each such person or entity; and
(6) any other records required by law to be maintained for the trust account.

(c) Minimum Records for Accounts at Other Financial Institutions. The minimum records required for dedicated trust accounts and fiduciary accounts at financial institutions other than a bank shall consist of the following:
(1) all records listing the source and date of receipt of all funds deposited in the account including, but not limited to, depository receipts, deposit slips, and wire and electronic transfer confirmations;
(2) a copy of all checks or other items drawn on the account, or digital images thereof furnished by the depository, showing the amount, date, and recipient of the disbursement, provided, that the images satisfy the requirements set forth in Rule 1.15-3(b)(2);
(3) all instructions or authorizations to transfer, disburse, or withdraw funds from the account (including electronic transfers or debits) or a written or electronic record of any such transfer, disbursement, or withdrawal showing the amount, date, and recipient of the transfer or disbursement;
(4) all statements and other documents received from the depository with respect to the account, including, but not limited to notices of return or dishonor of any item drawn on the account for insufficient funds; and
(5) any other records required by law to be maintained for the account.

(d) Reconciliations of General Trust Accounts.
(1) Quarterly Reconciliations. For each general trust account, a reconciliation report shall be prepared at least quarterly. Each reconciliation report shall show all of the following balances and verify that they are identical:
(A) The balance that appears in the general ledger as of the reporting date;
(B) The total of all subsidiary ledger balances in the general trust account, determined by listing and totaling the positive balances in the individual client ledgers and the administrative ledger maintained for servicing the account, as of the reporting date; and
(C) The adjusted bank balance, determined by adding outstanding deposits and other credits to the ending balance in the monthly bank statement and subtracting outstanding checks and other deductions from the balance in the monthly statement.
(2) Monthly Reconciliations. Each month, the balance of the trust account as shown on the lawyer's records shall be reconciled with the current bank statement balance for the trust account.
(3) The lawyer shall review, sign, date, and retain a copy of the reconciliations of the general trust account for a period of six years in accordance with Rule 1.15-3(g).

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

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

(g) Minimum Record Keeping Period. A lawyer shall maintain, in accordance with this Rule 1.15, complete and accurate records of all entrusted property received by the lawyer, which records shall be maintained for at least the six (6) year period immediately preceding the lawyer's most recent fiscal year end.

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

(i) Reviews.

(1) Each month, for each general trust account, dedicated trust account, and fiduciary account, the lawyer shall review the bank statement and cancelled checks for the month covered by the bank statement.

(2) Each quarter, for each general trust account, dedicated trust account, and fiduciary account, the lawyer shall review the statement of costs and receipts, client ledger, and cancelled checks of a random sample of representative transactions completed during the quarter to verify that the disbursements were properly made. The transactions reviewed must involve multiple disbursements unless no such transactions are processed through the account, in which case a single disbursement is considered a transaction for the purpose of this paragraph. A sample of three representative transactions shall satisfy this requirement, but a larger sample may be advisable.

(3) The lawyer shall take the necessary steps to investigate, identify, and resolve within ten days any discrepancies discovered during the monthly and quarterly reviews.

(4) A report of each monthly and quarterly review, including a description of the review, the transactions sampled, and any remedial action taken, shall be prepared. The lawyer shall sign, date, and retain a copy of the report and associated documentation for a period of six years in accordance with Rule 1.15-3(g).

(j) Retention of Records in Electronic Format. Records required by Rule 1.15-3 may be created, updated, and maintained electronically, provided:

(1) the records otherwise comply with Rule 1.15-3, to wit: electronically created reconciliations and reviews that are not printed must be reviewed by the lawyer and electronically signed using a “digital signature” as defined in 21 CFR 11.3(b)(5);

(2) printed and electronic copies of the records in industry-standard formats can be made on demand; and
(3) the records are regularly backed up by an appropriate storage device.

**Rule 1.15-4 Alternative Trust Account Management Procedure for Multi-Member Firm**

(a) Trust Account Oversight Officer (TAOO).

Lawyers in a law firm of two or more lawyers may designate a partner in the firm to serve as the trust account oversight officer (TAOO) for any general trust account into which more than one firm lawyer deposits trust funds. The TAOO and the partners of the firm, or those with comparable managerial authority (managing lawyers), shall agree in writing that the TAOO will oversee the administration of any such trust account in conformity with the requirements of Rule 1.15, including, specifically, the requirements of this Rule 1.15-4. More than one partner may be designated as a TAOO for a law firm.

(b) Limitations on Delegation.

Designation of a TAOO does not relieve any lawyer in the law firm of responsibility for the following:

1. oversight of the administration of any dedicated trust account or fiduciary account that is associated with a legal matter for which the lawyer is primary legal counsel or with the lawyer’s performance of professional fiduciary services; and
2. review of the disbursement sheets or statements of costs and receipts, client ledgers, and trust account balances for those legal matters for which the lawyer is primary legal counsel.

(c) Training of the TAOO.

1. Within the six months prior to beginning service as a TAOO, a lawyer shall, (A) read all subparts and comments to Rule 1.15, all formal ethics opinions of the North Carolina State Bar interpreting Rule 1.15, and the North Carolina State Bar Trust Account Handbook; (B) complete one hour of accredited continuing legal education (CLE) on trust account management approved by the State Bar for the purpose of training a lawyer to serve as a TAOO; (C) complete two hours of training (live, online, or self-guided) presented by a qualified educational provider on one or more of the following topics: (i) financial fraud, (ii) safeguarding funds from embezzlement, (iii) risk assessment and management for bank accounts, (iv) information security and online banking, or (v) accounting basics; and (D) become familiar with the law firm’s accounting system for trust accounts.
2. During each year of service as a TAOO, the designated lawyer shall attend one hour of accredited continuing legal education (CLE) on trust account management approved by the State Bar for the purpose of training a TAOO or one hour of training, presented by a qualified educational provider, on one or more of the subjects listed in paragraph (c)(1)(C).

(d) Designation and Annual Certification.

The written agreement designating a lawyer as the TAOO described in paragraph (a) shall contain the following:

1. A statement by the TAOO that the TAOO agrees to oversee the operation of
the firm’s general trust accounts in compliance with the requirements of all subparts of Rule 1.15, specifically including the mandatory oversight measures in paragraph (e) of this rule;

2. Identification of the trust accounts that the TAOO will oversee;

3. An acknowledgement that the TAOO has completed the training described in paragraph (c)(1) and a description of that training;

4. A statement certifying that the TAOO understands the law firm’s accounting system for trust accounts; and

5. An acknowledgement that the lawyers in the firm remain professionally responsible for the operation of the firm’s trust accounts in compliance with Rule 1.15.

Each year on the anniversary of the execution of the agreement, the TAOO and the managing lawyers shall execute a statement confirming the continuing designation of the lawyer as the TAOO, certifying compliance with the requirements of this rule, describing the training undertaken by the TAOO as required by paragraph (c)(2), and reciting the statements required by subparagraphs (d)(1), (2), (4), and (5). During the lawyer’s tenure as TAOO and for six years thereafter, the agreement and all subsequent annual statements shall be maintained with the trust account records (see Rule 1.15-3(g)).

(e) Mandatory Oversight Measures.

In addition to any other record keeping or accounting requirement set forth in Rule 1.15-2 and Rule 1.15-3, the firm shall adopt a written policy detailing the firm’s trust account management procedures which shall annually be reviewed, updated, and signed by the TAOO and the managing lawyers. Each version of the policy shall be retained for the minimum record keeping period set forth in Rule 1.15-3(g).

| Rule 1.16 | (b), add two additional provisions: "(2) the client knowingly and freely assents to the termination of the representation and (8) the client insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law"
| Rule 1.17 | *Amendment effective October 2, 2014 adds the sale of an area of practice in the text
|          | (a) Deletes “in which the practice has been conducted” and adds text after “sold”: “from an office that is within a one-hundred (100) mile radius of the purchased law practice, except the seller may continue to practice law with the purchaser and may provide legal representation at no charge to indigent persons or to members of the seller’s family;”
|          | (c) written notice does not have to be given by the seller; (c)(1): notice includes the identity of the purchaser; (c)(3): only 30 days notice.
|          | inserts as (d): "If the seller or the purchaser identifies a conflict of interest that prohibits the purchaser from representing the client, the seller’s notice to the client shall advise the client to retain substitute counsel."
|          | adds at the end of (e), which is the notice paragraph at the end of MR (c): "In the event the court fails to grant a substitution of counsel in a matter, that matter shall not be included in the sale and the sale otherwise shall be unaffected."
|          | adds new (g): " The seller and purchaser may agree that the purchaser does not
have to pay the entire sales price for the seller’s law practice in one lump sum. The seller and purchaser may enter into reasonable arrangements to finance the purchaser’s acquisition of the seller’s law practice without violating Rules 1.5(e) and 5.4(a). The seller, however, shall have no say regarding the purchaser’s conduct of the law practice.”

| Rule 1.18 | (d) Representation is permissible if both the affected client and the prospective client have given informed consent, confirmed in writing, or:
| Amendment effective October 2, 2014 | (1) the disqualified lawyer is timely screened from any participation in the matter; and
|  | (2) written notice is promptly given to the prospective client. |

| Rule 1.19 | Rule 1.19 Sexual Relations with Clients Prohibited
|  | (a) A lawyer shall not have sexual relations with a current client of the lawyer.
|  | (b) Paragraph (a) shall not apply if a consensual sexual relationship existed between the lawyer and the client before the legal representation commenced.
|  | (c) A lawyer shall not require or demand sexual relations with a client incident to or as a condition of any professional representation.
|  | (d) For purposes of this rule, "sexual relations" means:
|  | (1) Sexual intercourse; or
|  | (2) Any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the lawyer for the purpose of arousing or gratifying the sexual desire of either party.
|  | (e) For purposes of this rule, "lawyer" means any lawyer who assists in the representation of the client but does not include other lawyers in a firm who provide no such assistance. |

| Rule 2.1 | kept the old MR language |
| Rule 2.2 | |
| Rule 2.3 | |
| Rule 2.4 | |

| Rule 3.1 | (a): did not delete "material"
| Rule 3.2 | |
| Rule 3.3 | (b): adds "counsel or assist a witness to hide or leave the jurisdiction for the purpose of being unavailable as a witness"
|  | (c): adds "or advise a client to disobey"; (c) is worded differently but same idea of testing the validity of an obligation
|  | (e): adds "ask an irrelevant question that is intended to degrade a witness"

| Rule 3.5 | did not change the text of their previous rule, which is more detailed than MR, other than to add as new (a)(5), the new (c) of the MR. The differences in their rule are: in place of MR (b), they have (a)(2) and (3), which state: "(2) communicate ex parte with a juror or prospective juror except as permitted by law; (3) communicate with a judge or other official except: (A) in the course of official proceedings; (B) in writing, if a copy of the writing is
Updated March 29, 2017

| Rule 3.6 | adds (e): "The foregoing provisions of Rule 3.6 do not preclude a lawyer from replying to charges of misconduct publicly made against the lawyer or from participating in the proceedings of legislative, administrative, or other investigative bodies."

| Rule 3.7 |  |

| Rule 3.8 | Amendment effective January 27, 2017 | add to (e) at the end: "or participate in the application for the issuance of a search warrant to a lawyer for the seizure of information of a past or present client in connection with an investigation of someone other than the lawyer, unless...."

| (g) deletes “and material” after “credible”; adds “or information” after “evidence” (g)(1) combines MR (g)(1)&(g)(2): “if the conviction was obtained in the prosecutor’s jurisdiction, promptly disclose that evidence or information (i) to the defendant or the defendant’s counsel of record if any, and (ii) the North Carolina Office of Indigent Defense Services or, in the case of a federal conviction, the federal public defender for the jurisdiction; or (g)(2) if the conviction was obtained in another jurisdiction, promptly disclose that evidence or information to the prosecutor’s office in the jurisdiction of the conviction or to (i) the defendant or defendant’s counsel of record if any, and (ii) the North Carolina Office of Indigent Defense Services or, in the case of a federal conviction, the federal public defender for the jurisdiction of conviction. Adds new (h): A prosecutor who concludes in good faith that evidence or information is not subject to disclosure under paragraph (g) does not violate this rule even if the prosecutor’s conclusion is subsequently determined to be erroneous.

| *See also: Rule 8.6 that applies to all lawyers. |

| Rule 3.9 | Do not have Rule 3.9. |

| Rule 4.1 | Do not have 4.1(b). |

| Rule 4.2 | (a), add at the end: "It is not a violation of this rule for a lawyer to encourage his or her client to discuss the subject of the representation with the opposing party in a good-faith attempt to resolve the controversy." |
(b): b) Notwithstanding section (a) above, in representing a client who has a dispute with a government agency or body, a lawyer may communicate about the subject of the representation with the elected officials who have authority over such government agency or body even if the lawyer knows that the government agency or body is represented by another lawyer in the matter, but such communications may only occur under the following circumstances:

1. in writing, if a copy of the writing is promptly delivered to opposing counsel;
2. orally, upon adequate notice to opposing counsel; or
3. in the course of official proceedings.

**Rule 4.3**

Divides the rule into two paragraphs.

The introduction is the same as the first sentence of the MR.

(a) is like the last sentence of the MR but worded differently: “[The lawyer shall not...] give legal advice to the person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such person are or have a reasonable possibility of being in conflict with the interests of the client.”

(b) is the same as the second sentence of the MR.

**Rule 4.4**

*Amendment effective October 2, 2014

Does not adopt Ethics 20/20 black letter changes (but does adopt comment amendments)

(b) “A lawyer who receives a writing relating to the representation of the lawyer’s client and knows or reasonably should know that the writing was inadvertently sent shall promptly notify the sender.”

**Rule 5.1**

*Amendment effective September 22, 2016

Title: changes “partners” to “principals”

Changes “partner(s)” to “principal(s)” throughout

adds "or the organization" wherever "firm" is mentioned in text and comments.

adds at the end of (c)(2): "...to avoid the consequences."

**Rule 5.2**

**Rule 5.3**

*Amendment effective September 22, 2016

Changes “partner” to “principal” throughout.

Same changes to text as 5.1.

**Rule 5.4**

*Amendment effective September 22, 2016

(a)(1): changes “partner” to “principal”

adds an additional provision as (a)(3):

3. a lawyer who undertakes to complete unfinished legal business of a deceased lawyer or a disbarred lawyer may pay to the estate of the deceased lawyer or to the disbarred lawyer that portion of the total compensation that fairly represents the services rendered by the deceased lawyer or the disbarred lawyer;

(d): does not include (d)(2).
Rule 5.5

*Amendment effective September 24, 2015*

(a) Deletes “or assist another in doing so”

(c) Deletes text after “practice in any jurisdiction” and adds “does not engage in the unauthorized practice of law in this jurisdiction if the lawyer’s conduct is in accordance with these Rules and:”

(c)(1) the lawyer is authorized by law or order to appear before a tribunal or administrative agency in this jurisdiction or is preparing for a potential proceeding or hearing in which the lawyer reasonably expects to be so authorized;

(c)(2) the lawyer acts with respect to a matter that arises out of or is otherwise reasonably related to the lawyer’s representation of a client in a jurisdiction in which the lawyer is admitted to practice and the lawyer’s services are not services for which pro hac vice admission is required.

(c)(3) Similar to MR (c)(3): the lawyer acts with respect to a matter that is in or is reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the lawyer’s services arise out of or are reasonably related to the lawyer’s representation of a client in a jurisdiction in which the lawyer is admitted to practice and are not services for which pro hac vice admission is required; or

(c)(4) the lawyer is associated in the matter with a lawyer admitted to practice in this jurisdiction who actively participates in the representation and the lawyer is admitted pro hac vice or the lawyer’s services are not services for which pro hac vice admission is required

(d) Similar to MR (d): A lawyer admitted to practice in another United States jurisdiction or in a foreign jurisdiction, and not disbarred or suspended from practice in any jurisdiction, or the equivalent thereof, does not engage in the unauthorized practice of law in this jurisdiction and may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law if the lawyer’s conduct is in accordance with these Rules and:

(d)(1) the lawyer provides legal services to the lawyer’s employer or its organizational affiliates; the services are not services for which pro hac vice admission is required; and, when the services are performed by a foreign lawyer and require advice on the law of this or another US jurisdiction or of the United States, such advice is based upon the advice of a lawyer who is duly licensed and authorized by the jurisdiction to provide such advice; or

(d)(2) the lawyer is providing services limited to federal law, international law, the law of a foreign jurisdiction or the law of the jurisdiction in which the lawyer is admitted to practice, or the lawyer is providing services that the lawyer is authorized by federal or other law or rule to provide in this jurisdiction.

(e) A lawyer admitted to practice in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, does not engage in the unauthorized practice of law in this jurisdiction and may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law if the lawyer’s conduct is in accordance with these Rules, the lawyer is the subject of a pending application for admission to the North Carolina State Bar by comity, having never previously been denied admission to the North Carolina State Bar for any reason, and the lawyer satisfies the following conditions:
(1) is licensed to practice law in a state with which North Carolina has comity in regard to admission to practice law;
(2) is a member in good standing in every jurisdiction in which the lawyer is licensed to practice law;
(3) has satisfied the educational and experiential requirements prerequisite to comity admission to the North Carolina State Bar;
(4) is domiciled in North Carolina;
(5) has established a professional relationship with a North Carolina law firm and is actively supervised by at least one licensed North Carolina attorney affiliated with that law firm; and
(6) gives written notice to the secretary of the North Carolina State Bar that the lawyer intends to begin the practice of law pursuant to this provision, provides the secretary with a copy of the lawyer’s application for admission to the State Bar, and agrees that the lawyer is subject to these rules and the disciplinary jurisdiction of the North Carolina State Bar. A lawyer acting pursuant to this provision may not provide services for which pro hac vice admission is required, and shall be ineligible to practice law in this jurisdiction immediately upon being advised that the lawyer’s application for comity admission has been denied.

(f) A lawyer shall not assist another person in the unauthorized practice of law.

(g) A lawyer or law firm shall not employ a disbarred or suspended lawyer as a law clerk or legal assistant if that individual was associated with such lawyer or law firm at any time on or after the date of the acts which resulted in disbarment or suspension through and including the effective date of disbarment or suspension.

(h) A lawyer or law firm employing a disbarred or suspended lawyer as a law clerk or legal assistant shall not represent any client represented by the disbarred or suspended lawyer or by any lawyer with whom the disbarred or suspended lawyer practiced during the period on or after the date of the acts which resulted in disbarment or suspension through and including the effective date of disbarment or suspension.

(i) For the purposes of paragraph (d), the foreign lawyer must be a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent, and are subject to effective regulation and discipline by a duly constituted professional body or a public authority.

| Rule 5.6 | Identical |
| **Rule 5.6** | |
| *Amendment effective September 24, 2015* | |
| Rule 5.7 | did not previously have this rule; essentially have proposed the rule without the changes added by E2k (which were not extensive.) |
| Rule 6.1 | do not have this rule |
| Rule 6.2 | do not have this rule |
## Rule 6.3

### Rule 6.4

### Rule 6.5

#### Rule 6.6

A lawyer who holds public office shall not:

(a) use his or her public position to obtain, or attempt to obtain, a special advantage in legislative matters for himself or herself or for a client under circumstances where the lawyer knows, or it is obvious, that such action is not in the public interest;

(b) use his or her public position to influence, or attempt to influence, a tribunal to act in favor of himself or herself or his or her client; or

(c) accept anything of value from any person when the lawyer knows or it is obvious that the offer is for the purpose of influencing the lawyer's action as a public official.

## Rule 7.1

### Rule 7.2

*Amendment effective October 2, 2014*

(a): same as former MR first paragraph

(1) – (3): same as former MR (a) – (c)

Adds (b) A communication by a lawyer that contains a dramatization depicting a fictional situation is misleading unless it complies with paragraph (a) above and contains a conspicuous written or oral statement, at the beginning and the end of the communication, explaining that the communication contains a dramatization and does not depict actual events or real persons.

*Amendment effective October 2, 2014*

(b)(2) pay the usual charges of a not-for-profit lawyer referral service that complies with Rule 7.2(d), or a prepaid or group legal services plan that complies with Rule 7.3(d); and

Did not adopt MR (b)(4)

(c): adds “other than that of a lawyer referral service as described in paragraph (d)” after “rule”

Adds (d) A lawyer may participate in a lawyer referral service subject to the following conditions:

1. the lawyer is professionally responsible for its operation including the use of a false, deceptive, or misleading name by the referral service;
2. the referral service is not operated for a profit;
3. the lawyer may pay to the lawyer referral service only a reasonable sum which represents a proportionate share of the referral service's administrative and advertising costs;
4. the lawyer does not directly or indirectly receive anything of value other than legal fees earned from representation of clients referred by the service;
5. employees of the referral service do not initiate contact with prospective clients and do not engage in live telephone or in-person solicitation of clients;
6. the referral service does not collect any sums from clients or potential clients for use of the service; and
7. all advertisements by the lawyer referral service shall:
   (A) state that a list of all participating lawyers will be mailed free of charge to members of the public upon request and state where such information may be obtained; and
(B) explain the method by which the needs of the prospective client are matched with the qualifications of the recommended lawyer.

| Rule 7.3 | (b)(2): adds “compulsion, intimidation, or threats” to end |
| *Amendment effective September 24, 2015* | (c) Targeted Communications. Unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2), every written, recorded, or electronic communication from a lawyer soliciting professional employment from anyone known to be in need of legal services in a particular matter shall include the statement, in capital letters, "THIS IS AN ADVERTISEMENT FOR LEGAL SERVICES" (the advertising notice), which shall be conspicuous and subject to the following requirements: |
| | (1) Written Communications. Written communications shall be mailed in an envelope. The advertising notice shall be printed on the front of the envelope, in font that is as large as any other printing on the front or back of the envelope. If more than one color or type of font is used on the front or the back of the envelope, the font used for the advertising notice shall match in color, type, and size the largest and widest of the fonts. The front of the envelope shall contain no printing other than the name of the lawyer or law firm and return address, the name and address of the recipient, and the advertising notice. The advertising notice shall also be printed at the beginning of the body of the enclosed written communication in a font as large or larger than the printing contained in the enclosed written communication. If more than one color or type of font is used on the enclosed written communication, then the font of the advertising notice shall match in color, type and size the largest and widest of the fonts. Nothing on the envelope or the enclosed written communication shall be more conspicuous than the advertising notice. |
| | (2) Electronic Communications. The advertising notice shall appear in the "in reference" or subject box of the address or header section of the communication. No other statement shall appear in this block. The advertising notice shall also appear, at the beginning and ending of the electronic communication, in a font as large or larger than the lawyer’s or law firm’s name in any masthead on the communication. If more than one color or type of font is used in the electronic communication, then the font of the advertising notice shall match in color, type and size the largest and widest of fonts. Nothing in the electronic communication shall be more conspicuous than the advertising notice. |
| | (3) Recorded Communications. The advertising notice shall be clearly articulated at the beginning and ending of the recorded communication. |
| | (d) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a prepaid or group legal service plan subject to the following: |
| | (1) Definition. A prepaid legal services plan or a group legal services plan ("a plan") is any arrangement by which a person, firm, or corporation, not otherwise authorized to engage in the practice of law, in exchange for any valuable consideration, offers to provide or arranges the provision of legal services that are paid for in advance of the need for the service ("covered services"). In addition to covered services, a plan may provide specified legal services at fees that are less than what a non-member of the plan would normally pay. The legal services offered by a plan must be provided by a licensed lawyer who is not an employee,
director or owner of the plan. A plan does not include the sale of an identified, limited legal service, such as drafting a will, for a fixed, one-time fee.

(2) Conditions for Participation.

(A) The plan must be operated by an organization that is not owned or directed by the lawyer;
(B) The plan must be registered with the North Carolina State Bar and comply with all applicable rules regarding such plans;
(C) The lawyer must notify the State Bar in writing before participating in a plan and must notify the State Bar no later than 30 days after the lawyer discontinues participation in the plan;
(D) After reasonable investigation, the lawyer must have a good faith belief that the plan is being operated in compliance with the Revised Rules of Professional Conduct and other pertinent rules of the State Bar;
(E) All advertisements by the plan representing that it is registered with the State Bar shall also explain that registration does not constitute approval by the State Bar; and
(F) Notwithstanding the prohibitions in paragraph (a), the plan may use in-person or telephone contact to solicit memberships or subscriptions provided:
(i) The solicited person is not known to need legal services in a particular matter covered by the plan; and
(ii) The contact does not involve coercion, duress, or harassment and the communication with the solicited person is not false, deceptive or misleading.

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Rule 7.4

Did not adopt MR (b) and (c)
(b): same as MR (d) but replaces “particular field of law” with “field of practice”
(b)(1) the certification was granted by the North Carolina State Bar;
(b)(2) the certification was granted by an organization that is accredited by the North Carolina State Bar; or
(b)(3) the certification was granted by an organization that is accredited by the American Bar Association under procedures and criteria endorsed by the North Carolina State Bar; and
(b)(4): same as MR (d)(2)

Rule 7.5

(a): replaces “otherwise” with “false or misleading,” adds “Every trade name used by a law firm shall be registered with the North Carolina State Bar for a determination of whether the name is misleading.” to end
Adds (c) A law firm maintaining offices only in North Carolina may not list any person not licensed to practice law in North Carolina as a lawyer affiliated with the firm unless the listing properly identifies the jurisdiction in which the lawyer is licensed and states that the lawyer is not licensed in North Carolina.
(d): same as MR (c) but adds “whether or not the lawyer is precluded from practicing law” to end
(e): same as MR (d) but adds “professional” before “organization”

Rule 7.6

did not include this rule

Rule 8.1

Rule 8.2

Rule 8.3

c: do not include the 2nd half of (c) because confidentiality for the assistance
program is covered in 1.6.

adds as (d):
(d) A lawyer who is disciplined in any state or federal court for a violation of the Rules of Professional Conduct in effect in such state or federal court shall inform the secretary of the North Carolina State Bar of such action in writing no later than 30 days after entry of the order of discipline.

Rule 8.4
(e): do not include the 2nd half, which was moved here from the 7s in the MR.
adds as (g):
(g) intentionally prejudice or damage his or her client during the course of the professional relationship, except as may be required by Rule 3.3.

Rule 8.5
*Amendment effective October 2, 2014
same as new MR. Use "render" rather than "provide."

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