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	MONTANA
	<p>Revised rules as adopted by Montana Supreme Court to be effective 4/1/04 Variations from the Model Rules are noted. Rules only; comment comparison not included</p>
Preamble	<p>add as Comment [1]: “A lawyer shall always pursue the truth.” [3], MR [2]: adds as second sentence: <u>“In performance of any functions a lawyer shall behave consistently with the requirements of honest dealings with others.”</u> Does not use word zealously. Penultimate sentence adds “with requirements <u>under these rules</u>” Last sentence ends at “about them” [9], MR [8]: “... citizen are usually harmonious. Thus, when an opposing party is well represented, a A lawyer can be a <u>dedicated</u> advocate on behalf of a client, <u>even an unpopular one, but in doing so must comply with these Rules of Professional Conduct and at the same time assume that justice is being done.</u>” Does not use “zealous.” [10], MR [9]: deletes last part of 2nd sentence. Does not use “zealously.” [11], MR [10]: deletes “largely” in first and last sentences [12], MR [11]: deletes first sentence. [14], MR [13]: adds after second sentence: <u>All lawyers understand that, as officers of the court, they have a duty to be truthful, which engenders trust in both the profession and the rule of law.</u> The Rules of Professional Conduct, when properly applied, serve to define that relationship. <u>Trust in the integrity of the system and those who operate it is a basic necessity of the rule of law; accordingly truthfulness must be the hallmark of the legal profession, and the stock-in-trade of all lawyers.</u></p>
Scope	<p>Does not designate separate Scope section. [21], MR [20], last sentence: The fact that a Rule is a provides just basis for a lawyer’s self-assessment <u>by a lawyer of his/her conduct or a basis for sanctioning a lawyer under the administration of a disciplinary authority process</u> does not imply that an antagonist in a collateral proceeding or transaction <u>opposing party or lawyer</u> has standing to seek enforcement of the Rules <u>in a collateral proceeding or transaction outside of the disciplinary process.</u> Does not include last sentence of MR [20] Does not include MR [21]</p>
Rule 1.0	<p>(b), adds definition of “Bona fide.” See 3.1. (c), does not delete definition of “consult.” See 1.17. (i), MR (g); inserts “law” before “partnership.” (p), MR (n), last sentence: A “signed” writing includes <u>the electronic equivalent of a signature, such as an electronic sound, symbol or process, which is attached to or logically associated with</u> a writing and executed or adopted by a person with the</p>

	intent to sign the writing.
Rule 1.1	
Rule 1.2	
Rule 1.3	
Rule 1.4	
Rule 1.5	Has (b) as proposed by Ethics 2000 in 8/01. (d)(1): uses “maintenance” in place of “alimony”
Rule 1.6	Does not have (b)(2) or (3)
Rule 1.7	
Rule 1.8	includes as (a)(2): (2) in matters in which a lawyer wishes to assert a retaining lien against client property, papers or materials in the lawyer's possession to secure payment for the lawyer's services and costs advanced relating to such property, papers or materials, <u>a written</u> agreement for such a lien shall expressly set forth the limitations contained in paragraph (i)(3); (c): ends at “or other relative” includes as (e)(3): (3) a lawyer may, for the sole purpose of providing basic living expenses, guarantee a loan from a regulated financial institution whose usual business involves making loans if such loan is reasonably needed to enable the client to withstand delay in litigation that would otherwise put substantial pressure on the client to settle a case because of financial hardship rather than on the merits, provided the client remains ultimately liable for repayment of the loan without regard to the outcome of the litigation and, further provided that neither the lawyer nor anyone on his/her behalf offers, promises or advertises such financial assistance before being retained by the client. (f)(1): adds “written” to “informed consent” replaces (i)(1) with: (1) may acquire and assert a charging lien only against causes of action or counterclaims in litigation pursuant to and only to the extent specified in MCA 37-61-420(2); such a charging lien does not extend to other client property, papers or materials in the lawyer's possession, to any matter not in litigation, or to any matter otherwise not covered by the specific language of MCA 37-61-420(2); adds as (i)(3) (3) may not acquire or assert a retaining lien to secure payment due for the lawyer's services against any client property, papers or materials other than those related to the matter for which payment has not been made and, upon termination of representation, shall deliver to the client any client property, papers or materials reasonably necessary to protect the client's interest in the matter to which the property, papers or materials relate as provided in Rule 1.16(d).
Rule 1.9	
Rule 1.10	added screening as proposed in the August E2k 2001 report.
Rule 1.11	
Rule 1.12	add reference to “settlement master” in addition to mediator, arbitrator or other third party neutral.
Rule 1.13	Did not make Cheek Commission changes
Rule 1.14	
Rule 1.15	Did not add new MR (b) and (c) (a): second sentence is different: Funds shall be kept in accordance with Rule 1.18 and this Rule

	(b) same as MR (d) (c): did not make changes; kept old MR (c)
Rule 1.16	1.16(d), last sentence replaced with: “A lawyer is entitled to retain and is not obliged to deliver to a client or former client papers or materials personal to the lawyer or created or intended for internal use by the lawyer except as required by the limitations on the retaining lien in Rule 1.8(i). Except for those client papers which a lawyer may properly retain under the preceding sentence, a lawyer shall deliver either the originals or copies of papers or materials requested or required by a client or former client and bear the copying costs involved.”
Rule 1.17	For MR, see 1.19. MT has as Rule 1.17 a rule on Government Employment: “An attorney employed <u>full time by</u> the State of Montana or <u>a political subdivision</u> shall not accept other employment during the course of which it would be possible to use or otherwise rely on information obtained by reason of government employment that is injurious, confidential or privileged and not otherwise discoverable.”
Rule 1.18	have a rule here on IOLTA
Rule 1.19	MR 1.17. adopted the MR but did not have the draft with “area of practice” added at the time they reviewed this.
Rule 1.20	MR 1.18. replaced references to “discuss” with “consults with or has had consultations with.” Hence, added the word “consults” back in the Rule 1.0. (d): as proposed by Ethics 2000 in 8/01
Rule 2.1	
Rule 2.2	Same as MR 2.3
Rule 2.3	Same as MR 2.4. added reference in (a) to “settlement masters.” (b): requires that all parties, not just unrepresented parties or those the lawyer knows do not understand the lawyer’s role, be informed of the lawyer’s focused role.
Rule 2.4	
Rule 3.1	rule split into (a) and (b). (b) is the same as the 2 nd half of the MR. (a) reads: “A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein: (1) without having first determined through diligent investigation that there is a bona fide basis in law and fact for the position to be advocated; (2) for the purpose of harassment, advancement of a nonmeritorious claim, or solely to gain leverage; or (3) to extend, modify, or reverse existing law unless a bona fide basis in law and fact exists for advocating doing so.”
Rule 3.2	
Rule 3.3	
Rule 3.4	
Rule 3.5	kept old MR. Did not adopt E2k changes.
Rule 3.6	
Rule 3.7	
Rule 3.8	adds to end of last sentence in (f): “consistent with the Confidential Criminal Justice

	Information Act”
Rule 3.9	
Rule 4.1	(b): Did not delete “to a third person”
Rule 4.2	
Rule 4.3	
Rule 4.4	(b): refers to “a writing” rather than “a document,” since writing is defined in 1.0 to include documents, faxes and email. Does not include “relating to the representation of the lawyer’s client”
Rule 5.1	(c): adds lawyer “within a firm” and another lawyer “in the firm’s” adds in (c)(1): ratifies “or ignores” the conduct involved.
Rule 5.2	
Rule 5.3	
Rule 5.4	
Rule 5.5	still being reviewed current rule same as old model rule
Rule 5.6	
Rule 5.7	do not have this rule
Rule 6.1	Does not have “Voluntary” in title First paragraph, second sentence: does not have “aspire”
Rule 6.2	
Rule 6.3	
Rule 6.4	
Rule 6.5	
Rule 7.1	
Rule 7.2	did not review Ethics Committee changes to 7.2. [new 7.2(b)(4)]
Rule 7.3	adds two provisions in (b): “(3) the lawyer knows or reasonably should know that the physical, emotional, or mental state of the person is such that the person cannot exercise reasonable judgment in employing a lawyer; (4) the lawyer reasonably should know that the person is already represented by another lawyer.” adds at the end of (d): “Lawyers who participate in a legal services plan must reasonably assure that the plan sponsors are in compliance with Rules 7.1, 7.2, and 7.3(b). See Rule 8.4(a).”
Rule 7.4	adds at the end of (a): <u>.”A lawyer may also communicate that his/her practice is limited to or concentrated in a particular field of law, if such communication does not imply an unwarranted expertise in the field so as to be false or misleading under Rule 7.1.”</u>
Rule 7.5	adds reference to “website” as an example of a professional designation.
Rule 7.6	did not propose adoption of this rule because they feel other rules address the problem.

Rule 8.1	
Rule 8.2	
Rule 8.3	
Rule 8.4	
Rule 8.5	<p>A lawyer who is not an active member in good standing of the State Bar of Montana and who seeks to practice in any court of this State <i>pro hac vice</i>, by motion, or before being otherwise admitted to the practice of law in this State, shall, prior to engaging in the practice of law in this State, certify in writing and under oath to this Court that, except as to Rules 6.1 through 6.4, he or she will be bound by these Rules of Professional Conduct in his or her practice of law in this State and will be subject to the disciplinary authority of this State. A copy of said certification shall be mailed, contemporaneously, to the business offices of the State Bar of Montana in Helena, Montana.</p>