

State Committees Review and Respond to Model Rules Amendments

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Forty-nine states and the District of Columbia have indicated that they have committees reviewing their professional conduct rules in light of the changes to the ABA Model Rules of Professional Conduct that were enacted in February 2002 pursuant to the recommendations of the Ethics 2000 Commission.¹ As of November 30, 2007, 35 state supreme courts have adopted new rules in response to review committee reports,² and an additional nine state review committees have published revised rules for consideration.³ Massachusetts has adopted new rules 2.4 and 6.5. This paper provides a comparison of the state proposed or newly adopted rules with the ABA Model Rules in several important areas. References to “all states” mean all states that have proposed or adopted new rules since the ABA House action.

Rule 1.0: Terminology

The Terminology section has been moved from the introductory portion of the Model Rules to a new Rule 1.0 to give the defined terms greater prominence and to permit the use of Comments to further explicate the provisions. All states except Florida, Mississippi and Virginia have followed this new format. California has not yet reviewed this rule. Alaska followed the Model Rules format but places the rule at the end of their rules with the number 9.1.

Several new terms are defined in this new rule, including “confirmed in writing,” “informed consent,” “screened,” and “tribunal.” All states except Virginia have proposed changes that are substantially similar to the Model Rules. Variations include definitions of additional terms and changes to some already defined terms.⁴ All except North Dakota

¹ Alabama does not currently have a committee reviewing the Ethics 2000 amendments.

² New rules have been enacted in North Carolina (effective 3/1/03), Delaware (effective 7/1/03), Arizona (effective 12/1/03), New Jersey (effective 9/10/03), South Dakota (effective 1/1/04), Virginia (effective 1/1/04), Louisiana (effective 3/1/04), Montana (effective 4/1/04), Idaho (effective 7/1/04), Indiana (effective 1/1/05), Oregon (effective 1/1/05), Pennsylvania (effective 1/1/05), Maryland (effective 7/1/05), Arkansas (effective 5/1/05), Iowa (effective 7/1/05), Nebraska (effective 9/1/05), South Carolina (effective 10/1/05), Minnesota (10/1/05), Utah (effective 11/1/05), Mississippi (effective 11/3/05), Nevada (effective 5/1/06), Florida (effective 3/22/06), Wyoming (effective 7/1/06), North Dakota (effective (8/1/06), Washington (effective 9/1/06), Ohio (effective 2/1/07), Washington D.C. (effective 2/1/07), Connecticut (effective 1/1/07), Wisconsin (effective 7/1/07), Rhode Island (effective 4/15/07), Missouri (effective 7/1/07), Kansas (effective 7/1/07), Oklahoma (effective 1/1/08), Colorado (effective 1/1/08) and New Hampshire (effective 1/1/08).

³ The Center for Professional Responsibility Policy Implementation Committee, chaired by Stephen Gillers, is responsible for assisting states as they review the new rules and for collecting information about implementation efforts. As of 11/30/07, the Committee was aware of reports from Alaska, California (committee is not posting all rules at the same time), Illinois, Kentucky, Maine, Michigan, New York, Vermont and West Virginia.

⁴ For example, Alaska defines “client,” “matter,” “person” and “substantially related;” Connecticut defines “client;” the District of Columbia defines “law clerk” and “matter;” Florida defines “lawyer;” Michigan defines “adjudicative officer” and “person;” Montana includes a definition of “bona fide;” Nevada defines “organization;” New Jersey defines “primary responsibility;” New York defines “domestic partner;”

and Virginia have included the new term, “informed consent.” North Dakota and Virginia retain the definition of “consultation” from the old Model Rules and continue to use the phrase “consent after consultation” throughout the rules instead of “informed consent.” Alaska, the District of Columbia, Florida, Kansas, Maryland, Minnesota, Mississippi, South Carolina, Utah and Wisconsin have included the new term but also continue to use “consultation.” Wyoming uses the term “informed decision.”

Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer

Model Rule 1.2(a) was amended to clarify the allocation of authority between client and lawyer. Rule 1.2(c) permits limiting the scope of a representation to enable lawyers to provide limited legal services to low and moderate-income persons. All states except the District of Columbia, Kansas, Mississippi, Missouri and Virginia have adopted or proposed changes substantially similar to these new provisions.⁵ California has not yet reviewed this rule.

Alaska does not include the language in paragraph (a) on consultation about means and adds whether to appeal to the list of client decisions with which the lawyer shall abide and adds detail to (c) on what constitutes limited representation. Colorado’s (c) adds provisions on limiting “objectives” and providing limited assistance to pro se parties. Connecticut’s rule provides guidance for lawyers involved in insurance-defense work. Florida’s rule requires that the consent be in writing and that the lawyer advise the client of the applicability of the rule prohibiting communication with a represented person. Iowa’s (c) adds additional requirements for limiting representation. Maine’s proposal adds information to paragraph (c) on the circumstances in which a lawyer can enter a limited appearance for a client and adds a new paragraph (d) on limited representation under the auspices of a non-profit or court-annexed program. New Hampshire’s (a) does not include the specific examples of client decisions in the Model Rule, and their paragraph (c) includes more detail on the lawyer’s responsibilities in a limited representation. North Carolina does not require the client to give informed consent in 1.2(c). Ohio adds a provision to (a) on professionalism and recommends in (c) that limitations in scope be communicated in writing. Wyoming’s paragraph (c) outlines the circumstances in which an informed decision on a limited representation will be valid.

Rule 1.4: Communication

“domestic relations matter,” “person,” “professional legal corporation,” “reasonable lawyer,” “sexual relations” and “state;” North Dakota defines “consent in writing,” “jurisdiction,” “legal assistant” and “matter;” Ohio defines “illegal” and “substantially related matter;” Oregon defines “electronic communication,” “financial institution,” and “information relating to the representation;” Wisconsin defines “advanced fee,” “flat fee,” “misrepresentation,” “prosecutor” and “retainer;” and Wyoming defines “confidential information.”

⁵ The District of Columbia retains their former rule, which is substantially similar to the former Model Rule, but added to (a) the new sentence regarding taking action “impliedly authorized” and changed the reference in (c) to “informed consent.” Kansas retains their former (a), which is substantially similar to the former Model Rule, but their (c) is the same as the current rule. Mississippi generally retains the old Model Rule language but changes “consents after consultation” to “informed consent” in (c). Missouri retains the former Model Rule. Virginia’s (a) is the same as the former MR but adds a requirement that the lawyer consult the client regarding a settlement. Their (b) is the same as former MR (c).

Thirty-three states have proposed or adopted rules that are the same as new paragraph (a), which added detail about a lawyer's duty to communicate with the client, specifically identifying five different aspects of the duty to communicate. Three of those states added an additional requirement that the lawyer promptly notify the client of all proffered plea agreements (Arizona), all settlement offers, case evaluations or plea bargains (Michigan) or any information required by court rule or other law to be communicated to a client (New York). In Florida's rule (a)(5) the standard is that the lawyer knows or reasonably should know.

Five other states proposed rules that are similar but slightly different. California's proposed rule contains several wording differences and adds a paragraph on client access to documents. Maryland does not include (a)(2) (consultation about the means by which the client's objectives are to be accomplished); Missouri and New Jersey do not include (a)(1) or (a)(2). North Dakota uses "consent" rather than "informed consent" in (a)(1) and adds "make reasonable efforts to" to the beginning of (a)(3).

New Hampshire's (b) expands on the required explanation. Wyoming's paragraph (b) adds language about the responsibilities of a guardian ad litem.

Arkansas added (c) requiring the lawyer to notify the client in writing if the lawyer received any payment on behalf of the client. California's proposed (c) requires the lawyer to communicate to the client offers made in a criminal matter and settlement offers. Louisiana added (c) regarding financial assistance to clients. New York proposed (c) regarding domestic relations matters. Nevada's (c) requires lawyers to make available a biographical data form. Ohio adds (c) on disclosure of malpractice coverage. Rhode Island's (c) requires the lawyer to take reasonable steps to explain the lawyer-client relationship when the lawyer has reason to believe the client does not understand it and provides a statement of client rights and responsibilities for this purpose.

Kansas, Mississippi, Oregon and Virginia follow the former version of the Model Rule. The District of Columbia did not change their version of the rule, which is similar to the former Model Rule but adds a paragraph on communicating settlement or plea bargain offers. In Alaska's proposed rule, paragraph (a) requires the lawyer to keep the client reasonably informed about the status of the matter and explain the matter to the extent necessary to allow the client to make informed decisions, paragraph (b) requires the lawyer to inform the client of any decision requiring informed consent and prohibits any binding action by the lawyer until such consent is given and paragraph (c) requires the lawyer to inform the client if the lawyer does not carry malpractice insurance within certain coverage limits.

Rule 1.5: Fees

Model Rule 1.5(a) was changed from "A lawyer's fee shall be reasonable," to a requirement that "A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses." The factors to be considered in determining the reasonableness of the fee were not changed in the Ethics 2000 amendments. Thirty states (Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Oklahoma, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Washington, Wisconsin and Wyoming) follow the amendments in paragraph (a). Of those states, six vary the list

of factors slightly. Arizona lists “the degree of risk assumed by the lawyer” as (a)(8). Alaska, Kentucky and South Carolina delete “if apparent to the client” in (a)(2). Maine includes a definition of “unreasonable” in (a) and adds “the responsibility assumed” to (a)(4), “whether the client has given informed consent as to the fee arrangement” as (a)(9) and “whether the fee agreement is in writing” as (a)(10). Washington adds the “terms of the fee agreement” as a factor.

Florida’s (a) refers to a fee that is “illegal, prohibited, or clearly excessive fee or cost or a fee generated by employment that was obtained through advertising or solicitation not in compliance with the rules regulating The Florida Bar” and defines “clearly excessive.” The list of factors in Florida also varies considerably from the Model Rule.

Six states (Michigan, New York, North Carolina, Ohio, Oregon and Pennsylvania) refer to “excessive or illegal” rather than “unreasonable” fees.

Five states (District of Columbia, Kansas, Mississippi, New Jersey and Virginia) retained the old Model Rule language in the introduction.

In paragraph (b), the scope of the representation and the expenses for which the client will be responsible were added as matters that must be communicated to the client before or within a reasonable time after commencing the representation. The new rule also requires that changes in the basis or rate of the fee or expenses shall also be communicated to the client. Most states have made changes that are the same or substantially similar to the amendments in paragraph (b). Alaska and Colorado do not include the scope of the representation. Alaska, the District of Columbia, New Hampshire and North Carolina, do not include changes in the basis or rate of the fee. Kansas, Mississippi, Pennsylvania and Virginia, follow the old Model Rule language in paragraph (b). Under Colorado’s rule, changes to the basis or rate of fees or expenses are subject to Rule 1.8(a). North Dakota follows the former Model Rule language but adds a reference to expenses. Oregon has no provision similar to paragraph (b).

Ten states (Alaska, Arizona, Colorado, Connecticut, District of Columbia, Montana, New Jersey, Pennsylvania, Rhode Island and Wisconsin) require the fee agreements to be in writing, as the Ethics 2000 Commission had originally proposed.⁶ Alaska’s proposed rule lists the material that must be included in the fee agreement. Connecticut’s rule requires that clients be notified of changes in fees or expenses in writing before they take effect. It also exempts public defenders from the written fee agreement requirement. Minnesota adds a requirement that all agreements for the advance payment of nonrefundable fees be reasonable and communicated in a writing signed by the client. Rhode Island’s proposal requires quarterly bills. Washington’s rule requires the lawyer to communicate in writing at the client’s request. Under Wisconsin’s rule, if the cost of the representation will be under \$1,000, the client consent can be oral or written. When the cost of the representation will be more than \$1,000, the purpose and effect of any retainer must also be discussed in writing. The lawyer must also promptly respond to any client queries about fees or expenses.

⁶ Prior to January 1, 2003, 10 states had provisions regarding written fee agreements: Alaska, California, Colorado, Connecticut, District of Columbia, New Jersey, New York, Pennsylvania, Rhode Island and Utah. Of those 10 states, nine have submitted reports or adopted revised rules. New York and Utah’s revisions do not require a writing.

New Model Rule 1.5(c) provides that the contingent fee agreement must be signed by the client and requires that the agreement notify the client of any expenses for which the client will be responsible. Twenty-five states agreed with these amendments. Alaska, Arkansas, the District of Columbia, Florida, Kansas and New York do not require that the writing be signed by the client. Colorado's rule refers to the Rule of Civil Procedure governing contingent fees, which requires a signed agreement and notification of expenses. Florida's rule is substantively similar but significantly more detailed. The rule in Kansas states that expenses must be deducted before the fee is calculated, does not include the requirement that clients be notified for which fees they are liable and includes a provision on court review of fee contracts. Louisiana's rule requires that the client receive a copy of the agreement. Nevada's rule adds information that must be included in the agreement. North Dakota's rule requires that an itemization of expenses be included in the final accounting. Ohio's proposal requires that the lawyer sign the agreement as well and mandates a closing statement if the client will receive any compensation. Washington's rule adds a provision on the calculation of a fee that is a percentage of a recovery.

Three states (Mississippi, Pennsylvania, and Virginia) follow the old Model Rule.

Rule 1.7: Conflict of Interest: Current Clients

All states, except the District of Columbia, Mississippi, North Dakota and Ohio, have followed the new format and essentially the new language of Model Rule 1.7, which was significantly changed in format but not in substance. California has not yet reviewed this rule. The Rule does include a new requirement that the client's informed consent be "confirmed in writing." Indiana, Wisconsin and Wyoming require the writing to be signed by the client, whereas Illinois and Pennsylvania do not require the consent to be confirmed in writing at all.

Alaska adds proposed paragraph (c) requiring lawyers to act with diligence when determining whether a conflict exists and paragraph (d) determining who is a client in class-action cases. Florida, Kentucky and New Jersey add provisions relating to common representation. Florida and Oregon add a provision regarding related lawyers. Florida adds a provision regarding insurance representation. Iowa adds a provision related to dissolution of marriage proceedings. Maine breaks Model Rule paragraphs (b)(2) and (3) into a proposed paragraph (c) stating that representations prohibited by law or in which one client will assert a claim against another are impermissible.

Rule 1.8(j): Prohibition regarding sexual relationships with clients

Twenty-nine states have added or proposed adding the new provision prohibiting a lawyer from having sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced, or a substantially similar provision. Eleven of those states added further provisions to their rules. Minnesota, North Carolina, Oregon, Utah and Wisconsin add a definition of "sexual relations;" Minnesota, North Carolina, Oregon and Washington include provisions relating to lawyers in a firm who do not work on a client matter; Alaska, Minnesota, Nevada and Wisconsin include provisions relating to organizational clients. Minnesota adds information on how an alleged violation of the Rule will be investigated if the person making the complaint is not the client. Iowa, Oregon and Washington also

refer to sexual relations with a representative of a current client if the relationship would, or would likely, damage or prejudice the client in the representation. Utah's rule prohibits sexual relationships that exploit the client-lawyer relationship and states that sexual relationships are presumed to be exploitative. Alaska and Oklahoma's versions prohibit sexual relations when they create a conflict of interest. Wyoming's rule additionally prohibits a sexual relationship with the spouse of a current client.

Fourteen states (California, District of Columbia, Florida, Louisiana, Maine, Maryland, Michigan, Mississippi, New Jersey, New York, Rhode Island, South Carolina, Vermont and Virginia) did not add or propose adding this new provision. California's proposal prohibits a sexual relationship if the lawyer demands it as part of the representation or it impairs the representation. The District of Columbia adds three new Comments to 1.7 on the inadvisability of a sexual relationship with a client. Florida adds in Rule 8.4(i) that it is misconduct for a lawyer to "engage in sexual conduct with a client or a representative of the client that exploits or adversely affects the interests of the client or the lawyer-client relationship." Maine's proposed Comment [12] to Rule 1.7 states that lawyers may be disciplined for sexual relationships with clients and goes on to list instances when such conduct would be considered in violation of the rules. Maryland's Comment [12] to Rule 1.7 states that a lawyer-client sexual relationship creates an impermissible conflict of interest if the representation would be materially affected or it is unreasonable for the lawyer to believe that competent and diligent representation can be provided. New York's proposal forbids a sexual relationship in domestic relations matters and, in all other matters, forbids requiring or demanding sexual relations or using coercion, intimidation or undue influence in a sexual relationship. South Carolina's Rule 1.8(m) prohibits sexual relations when the client is in a vulnerable condition or is otherwise subject to the control or undue influence of the lawyer or when such relations could have a harmful or prejudicial effect upon the interests of the client or adversely effect the representation. Vermont's proposal includes additional language in the Rule 1.8 Comment noting that a client-lawyer sexual relationship has the potential to violate a number of professional conduct rules.

Rule 1.10: Imputation of Conflicts of Interest: General Rule

Model Rule 1.10(a) includes a new provision that eliminates imputation of personal interest conflicts (conflicts between a lawyer's own personal interest and the interest of the client), in situations where there is no significant risk that the personal interest conflict will affect others in the lawyer's firm. All states except Alaska, Mississippi and Virginia have added this new exception to the general rule regarding imputation of conflicts of interest. California has not yet reviewed this rule. North Dakota's rule includes a definition of "personal interest disqualification."

The Ethics 2000 Commission recommended that Rule 1.10 include a provision for screening of lateral hires. While that recommendation was not adopted by the ABA House of Delegates, 22 states (Arizona, Colorado, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Minnesota, Montana, Nevada, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Washington and Wisconsin) include screening provisions in their rules or proposals. These vary in several respects but most require some kind of notice and most require that the screened

lawyer be apportioned no part of the fee from the representation. Minnesota, New York, North Carolina and Oregon do not include provisions relating to the apportionment of the fee. Illinois, Maryland and New York do not require notice to the client regarding the screen. Nine states (Arizona, Colorado, Indiana, Minnesota, Nevada, New Jersey, New York, Ohio and Wisconsin) permit screening only if the personally disqualified lawyer did not have a substantial role in the matter causing the disqualification.

The District of Columbia adds (e) on lawyers working for the Attorney General's Office. New York's proposal requires a firm to have a conflict-checking system. South Carolina adds paragraph (e) allowing screening in public defender and legal aid offices.

Rule 1.18: Duties to Prospective Clients

All states except Mississippi and Virginia have proposed or adopted this new rule regarding duties to prospective clients. California has not yet reviewed this rule. North Dakota's rule refers to "potential" clients.

Rule 1.18, as adopted by the ABA House of Delegates, permits screening of the lawyer who received the disqualifying information only if the lawyer took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client. An earlier draft of the Ethics 2000 Commission did not include this requirement.

Thirty-one states (Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, South Carolina, Utah, Vermont, Washington, Wisconsin and Wyoming) have included the new Model Rule requirement in their proposals or revised rules. Seven states (Arizona, Idaho, Maryland, Montana, New Jersey, North Carolina and Oregon) follow the earlier Commission draft. The District of Columbia does not require the consent to be confirmed in writing and does not have a provision for written notice. Florida, Idaho and North Dakota do not include the screening option. Wyoming's rule requires both the affected and prospective client to sign the writing.

As with the screening provisions that many states have proposed or adopted in Rule 1.10, some states do not require the client to be notified of the screen (District of Columbia, Illinois, Maryland and Missouri) and some states do not prohibit the disqualified lawyer from receiving part of the fee from the representation (Connecticut, District of Columbia, Missouri, New York, North Carolina and Oregon).

Rule 2.4: Lawyer Serving as Third-Party Neutral

New Model Rule 2.4 requires lawyers who serve as third-party neutrals to inform unrepresented parties that the lawyer is not representing them. It further requires the lawyer to explain the difference between the lawyer's role as a neutral and a lawyer's role as one who represents a client whenever the lawyer knows or reasonably should know that a party does not understand the lawyer's role as neutral.

All states except Virginia proposed adding this new Rule. Virginia has separate rules on third-party neutrals and mediators that are substantially different from the Model Rule. Seven vary the language from the new Model Rule. Alaska's proposal adds paragraph (c) requiring third-party neutrals to comply with the ABA Code of Ethics for

Arbitration in Commercial Disputes. California references other rules with which the lawyer should comply. Illinois requires that all unrepresented parties be informed of the lawyer's role. Maine adds additional language on limitations and conditions of the neutral's role. Montana adds a reference to "settlement masters" in paragraph (a), and requires in paragraph (b) that all parties be informed of the lawyer's focused role. Oregon's rule only refers to mediators and includes more detail regarding permissible activities of the mediator. South Carolina adds paragraph (c) providing that when a party to a mediation is a current or former client of a lawyer or the lawyer's firm, the lawyer can only serve as mediator if the lawyer or firm has not represented the client in the matter and all parties give informed consent confirmed in writing. Utah adds paragraph (c) on a lawyer-mediator's activities after the mediation has been fully resolved.

Rule 4.2: Communication with Person Represented by Counsel

The 2002 amendments clarified that a lawyer may communicate with a represented person pursuant to a court order. Six states (Arizona, Arkansas, Connecticut, Florida, Mississippi and Virginia) did not add this amendment to their rules. California has not yet reviewed this rule. Utah's rule notes that any communication authorized by law, rule or court order will be strictly restricted to what is permitted under the law, rule or order.

In a prior amendment of Rule 4.2, the term "party" was changed to "person" to clarify that the rule does not only apply in the context of litigation. All states except Arizona, Connecticut, Michigan and Mississippi have agreed with this change. Alaska's proposed rule refers to a "party or person." Wyoming's rule refers to "a person or entity."

A number of states include in the text of the rule matters that are covered in the comment in the Model Rules. Four states (District of Columbia, Louisiana, Maryland and Utah) include provisions relating to organizational clients, and four (District of Columbia, Maryland, North Carolina and Utah) include provisions regarding public officials. New York and North Carolina discuss the lawyer's role in the client's communications with represented persons. Florida, Iowa, Maine, New Hampshire and Utah include provisions on a lawyer's responsibilities in a limited representation. The District of Columbia includes a definition of "party" or "person." Florida refers to communications pursuant to a statute or contract requiring notice or service of process directly on an adverse party. One of two proposals from Michigan includes a provision regarding government investigators. New Jersey requires reasonable diligence in determining whether a person is represented by a lawyer.

Rule 6.5: Nonprofit and Court-Annexed Limited Legal Services Programs

This new rule is applicable where a lawyer provides short-term, limited legal services to a client under the auspices of a program sponsored by a nonprofit organization or court. All states except Florida, Kansas and Mississippi have proposed or added this new Rule. California has not yet reviewed this rule. Connecticut's rule requires the lawyer to secure client consent for the limited representation. New Hampshire's rule applies to a "one-time consultation" and includes a statement that Rules 1.6 and 1.9(c) are applicable. New York's proposal provides that if there is a conflict of interest, the lawyer can still make a referral to another appropriate program. North Dakota adds a provision stating that disqualification under this rule will not be imputed to others in the lawyer's

firm. Washington adds a screening mechanism to the rule. Wyoming's rule provides that the client must make an informed decision as to the limited nature of the representation and that the consent must be in writing unless the representation is provided by phone.

Conclusion

One of the goals of the Ethics 2000 Commission was to take a position of leadership in proposing rules that had the potential to bring greater uniformity among the jurisdictions. It was the Commission's hope that through the current review process, each jurisdiction would recognize the extent to which its rules differ from the Model Rules and address the differences. Consistent with that goal, in a June 25, 2003 memorandum to the Members of the Conference of Chief Justices (CCJ), Chief Justices E. Norman Veasey (Delaware) and Randall T. Shepard (Indiana), co-chairs of the CCJ Committee on Professionalism and Competence of the Bar, made the following observation about uniformity:

Absolute uniformity is not likely, but it is desirable that there be as much uniformity as possible. We encourage each jurisdiction to adopt the format of the Model Rules and to have your review committees identify those areas that differ from the Model Rules, providing an analysis of the basis for the variation. Where only minor differences exist, there may be an opportunity to reconsider adopting the language of the Model Rules. Where significant differences exist, there will be an opportunity for the ABA and other review committees to learn from your committee's experience and analysis.

Additionally, greater uniformity would reinforce the judicial branch's regulation of the profession, particularly in light of the increase in multijurisdictional practice and the number of lawyers with multiple licenses.

This article has been a comparison of just a few of the amendments to the Model Rules of Professional Conduct, concentrating on some of the most significant changes and the new areas addressed by the Rules. All review committee proposals are subject to change until approved by the highest court in the jurisdiction. For more information about the work of the state review committees or for other questions about the new Model Rules, please visit http://www.abanet.org/cpr/jclr/jclr_home.html, or contact Susan Campbell, at suecampbell@staff.abanet.org.

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