



# A Quick Reference Guide to the 2009 Kentucky Rules of Professional Conduct

Del O'Roark, Loss Prevention Consultant, Lawyers Mutual Insurance Company of Kentucky

## Introduction

In 1990 when the Supreme Court promulgated the Kentucky Rules of Professional Conduct (KRPC)<sup>1</sup> modeled on the ABA Model Rules the Bar experienced what can only be described as ethics culture shock. While the basic ethics principles changed little, the entirely new organization that included black letter rules with explanatory comments put the Bar on a severe learning curve. Few Kentucky lawyers at that time had studied the Model Rules in law school and many struggled to adjust to the new system. Twenty years later with the first comprehensive revision of the KRPCs much has changed. I estimate that now the majority of Kentucky lawyers studied the Model Rules in law school and those that did not have had ample time to learn the new system. While the 2009 version of the KRPCs added new rules, extensively modified several key rules, and fine-tuned many others, catching up this time should be much simpler for all.

To ease the task the purpose of this article is to provide a guide to those changes considered most significant and in need of prompt attention. The article begins with an overview of new rules followed by a snapshot review of rules with the most significant changes. It is intended to be practical and, therefore, does not go into the legislative history of a change or offer detailed analysis of each change. The point is to assist you in selecting the rules on which you need to focus. There is no substitute for reading the Rules.

Space precludes covering all changes. Thus, to be sure that you have visibility on their scope, the appendix to this article consists of two matrices that align the Model Rules with the 1990 KRPCs and an estimate of the degree of change made to each KRPC in the 2009 revision. These matrices, one covering changes to the advertising rules and the other covering all other rules, will help you in deciding where to put your emphasis in reviewing the 2009 Rules.<sup>2</sup>

## What's New

The 2009 Rules include a first ever Preamble and Scope section plus five new rules. What follows is a brief synopsis of these additions with emphasis on the new reporting lawyer misconduct rule.

### *Preamble and Scope*

The KBA Ethics 2000 Committee report gave this succinct description:

- Preamble: A Lawyer's Responsibilities is an overview of

the responsibilities the Rules impose on lawyers. It is composed of judicial policy, aspirational goals, and instruction.

- Scope transitions to more particular guidance on the application of the Rules. It covers how the Rules should be interpreted, that the Rules are for disciplinary purposes and not for use in civil actions against lawyers, and makes clear that the Rules are subordinate to substantive law.

Begin your review of the 2009 changes by reading the Preamble and Scope. It might better be called a Supreme Court policy statement for Kentucky lawyers and sets the tone for the legal profession in Kentucky.

### *SCR 3.130 (1.17) Sale of Law Practice*

The 1990 Rules did not allow the sale of a law practice beyond the sale of the tangible assets of the practice. This prohibition was inequitable for sole practitioners. Law firms were allowed to compensate departing and retiring lawyers in a manner that effectively "buys" their interest in the practice. The new Rule 1.17 removes this inequity and provides an orderly procedure for sole practitioners and firms to transition out of the practice of law or adjust the focus of their practice in a manner that fairly compensates them for their equity in building a practice or area of practice.

The Rule permits the sale of a practice if the seller ceases to engage in: (1) the private practice of law; or (2) the field(s) of practice sold; or (3) the practice of law in the geographic area in which the practice has been conducted. It includes detailed guidance for buyer and seller, permissible fee arrangements, and transfer of client files.

### *SCR 3.130 (1.18) Duties to Prospective Client*

It was well established before Rule 1.18 was approved that Kentucky lawyers owed fiduciary duties concerning confidentiality and conflicts of interest in preliminary discussions with persons seeking legal representation (*Lovell v. Winchester*, 941 S.W.2d 466 (Ky., 1997)). Rule 1.18 and its comments codify these duties. They provide guidance on who is and is not a prospective client and permissible resolution of conflicts of interest resulting from a preliminary discussion with a prospective client. Significant features of the Rule are:

- No matter how brief the consultation, any information learned by a lawyer can only be revealed as Rule 1.9, Duties to Former Client, allows.
- A conflict of interest is created when the lawyer receives

information that could be “significantly harmful” to the prospective client.

- Comment 5 to the Rule permits, with the prospective client’s informed consent, conditioning consultation with the understanding that information revealed to the lawyer will not preclude the lawyer from representing a different client in the matter.
- Waiver of a conflict of interest is permissible with the written informed consent of the affected client and the former prospective client.
- Prospective client conflicts of interest are imputed to other members of a firm, but screening is permissible to overcome the disqualification.

### ***SCR 3.130 (2.4) Lawyer Serving as Third-Party Neutral***

This new Rule stems from the increasing number of lawyers that serve as neutrals in dispute resolutions. It provides that: “A lawyer serves as a third-party neutral when the lawyer assists two or more persons who are not clients of the lawyer to reach a resolution of a dispute or other matter that has arisen between them.” The intent is to clarify the lawyer-neutral’s role so that the dispute resolution parties have no misunderstanding as to the lawyer’s function.

### ***SCR 3.130 (6.5) Nonprofit and Court-Annexed Limited Legal Services Programs***

This new Rule is designed to solve the problem that the strict application of the conflict of interest rules causes for lawyers volunteering to provide short-term limited legal services in programs such as legal advice hotlines, advice only clinics, or pro se counseling. In providing these services a client-lawyer relationship is established with no expectation that the lawyer’s representation of the client will continue beyond the limited consultation. The intent is to make legal assistance more readily available to persons of limited means.

### ***SCR 3.130 (8.3) Reporting Professional Misconduct***

Rule 8.3 is the most dramatic addition to the KRPCs. As a new rule its application is yet to be interpreted by the Kentucky courts or the KBA disciplinary authorities. What follows is my effort to frame the issues and offer an analytical approach in addressing them. Do not hesitate to call the KBA Ethics Hotline for help when dealing with a reporting misconduct question.<sup>3</sup>

Paragraph (a) of the Rule establishes the operative terms for reporting misconduct. A helpful way of analyzing it is to break it down into its component parts:

- A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises
- a substantial question
- as to the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects,
- shall inform the Association’s Bar Counsel.

### ***What does ‘knows’ mean?***

- Rule 1.0 Terminology (f): Knowingly,” “known,” or “knows” denotes actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances. (*emphasis added*)
- The ABA Annotated Model Rules of Professional Conduct (6<sup>th</sup> ed.) at page 571 provides several examples of standards for determining actual knowledge. One of the best is “... a reasonable lawyer under the circumstances would have formed a firm opinion that the conduct in question had more likely than not occurred.”

### ***Do you have to self-report?***

- The Rule requires reporting of “another lawyer” not yourself.

### ***What is a substantial question?***

- Rule 1.0 Terminology (l): “Substantial” when used in reference to degree or extent denotes a material matter of clear and weighty importance.
- Comment (2), Rule 8.3: The term “substantial” refers to the seriousness of the offense and not to the quantum of the evidence of which the lawyer is aware.

### ***How do you determine that a substantial question of a lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects has a rational connection to the practice law?***

- Comment (2) to Rule 8.4, Misconduct, provides this guidance on fitness to practice Law:  
Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving “moral turpitude.” That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation. (*emphasis added*)

### ***When do you report?<sup>4</sup>***

- The Rule uses the imperative term “shall” in requiring that the Association’s Bar Counsel be notified of the misconduct. Reporting is not discretionary. The Rule does

not, however, provide a timeline for reporting. One standard is "... within a reasonable time under the circumstances." Factors to consider are protecting a client's interest and the severity of the misconduct.<sup>5</sup>

***Do you have to get client consent to report if the report includes client confidential information?***

- Rule 8.3(c) provides in part that "A lawyer is not required to report information that is protected by Rule 1.6 or by other law." Other jurisdictions have uniformly held that the duty to report misconduct is subordinate to the Rule 1.6 duty of confidentiality. Client consent to report confidential information is necessary.<sup>6</sup>

**Major Changes**

This section begins with a list of additions to Rule 1.0, Terminology. Two of these define a "writing or written" and "confirmed in writing." The text of these definitions is quoted below followed by a list of the Rules to which they apply. Other major Rule changes are covered in bullet format to provide the gist of the most important changes to facilitate your review.

***SCR 3.130 (1.0) Terminology***

Significant changes are numbering Terminology as Rule 1.0 and the addition of Comments for Terminology. New definitions are:

- Paragraph (b): "Confirmed in writing"
- Paragraph (e): "Informed consent"
- Paragraph (k): "Screened"
- Paragraph (m): "Tribunal"
- Paragraph (n): "Writing" or "written"

A number of Rules require that the informed consent of a client be confirmed in writing and in some cases that the client sign the writing. Definitions for writing and confirmed in writing are:

(n) "Writing" or "written" denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording and e-mail. A "signed" writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

(b) "Confirmed in writing," when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See paragraph (e) for the definition of an informed consent. If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.

Rules that require "confirmed in writing" are:

- 1.5(e): Division of fees between lawyers not in the same firm.
- 1.7(b): Conflicts of interest waivers.
- 1.9(a) and (b): Former client conflicts waivers.
- 1.10(c): Firm conflicts waivers (cross-reference to Rule 1.7).
- 1.11 (a): Conflict waivers for lawyers formerly in government service.
- 1.11(d): Conflict waivers for government lawyers formerly in private practice.
- 1.12 (a): Conflict waivers for lawyer who has acted as a judge, arbitrator, or mediator in a matter.
- 1.17, Comment (11): Waivers for conflicts created by sale of a law practice (cross-reference to Rule 1.7).
- 1.18(d): Waivers of conflicts created by receiving information from a prospective client.
- 3.7, Comment (6): Waivers of conflicts for lawyer or firm acting both as advocate and witness.
- 6.5, Comment (3): Conflict waivers for known conflicts created by short-term representations in legal services programs (cross-reference to Rules 1.7, 1.9, and 1.10).

Rules that require that a client sign a writing are:

- 1.5(c): Contingent fee agreements.
- 1.5(f): Non-refundable retainer agreements.
- 1.8(a)(3): Business transactions between client and lawyer.
- 1.8(g): Aggregate settlements.

Rules that require that a client be advised in writing of the desirability of obtaining the advice of independent counsel are:

- 1.8(a)(2): Business transactions.
- 1.8(h): Settling claim with an unrepresented client or former client.<sup>7</sup>

***SCR 3.130 (1.5) Fees***

- 1.5(c): A contingent fee agreement shall be in a writing signed by the client ....
- 1.5(e) A division of a fee between lawyers who are not in the same firm may be made only if: .... (2) the client agrees to the arrangement and the agreement is confirmed in writing ....
- 1.5(f): A fee may be designated as a non-refundable retainer. A non-refundable retainer fee agreement shall be in a writing signed by the client evidencing the client's informed consent, and shall state the dollar amount of the retainer, its application to the scope of the representation and the time frame in which the agreement will exist.
  - 1.5 Comment (11): A lawyer may designate a fee arrangement as a non-refundable retainer and upon receipt deposit such funds in the lawyer's operating account. The amount of a non-refundable retainer fee must be reasonable in amount and comply with Rule 1.5.

### **SCR 3.130 (1.6) Confidentiality of Information**

The most important changes to Rule 1.6 are in paragraph (b) that allows permissive disclosure of confidential information in certain circumstances.

- Paragraph (b)(1) significantly expands the discretion to reveal information when a lawyer learns that there is a serious risk of injury to a client or other person. The clearest way to see the significance of the changes is to view how the 1990 Rule (b)(1) was edited:
  - 1.6 (b): A lawyer may reveal such information relating to the representation of a client to the extent the lawyer reasonably believes necessary:
    - (1) ~~To to prevent the client from committing a criminal act that the lawyer believes is likely to result in imminent~~ reasonably certain death or substantial bodily harm;
  - This editing:
    - Removed the requirement of client criminality for the exception to apply;
    - Deleted the word “imminent” avoiding the question of how close in time the risk must be and whether imminent applies only to death or to both death and substantial bodily harm; and
    - “Reasonably certain” replaced “likely” as a more precise standard for permitting disclosure.
- Paragraph (b)(2) is a new exception: “to secure legal advice about the lawyer’s compliance with these Rules.”

### **SCR 3.130(1.8) Conflict Of Interest: Current Clients: Specific Rules**

- Rule 1.8(j): A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them before the client-lawyer relationship commenced.
  - Client-Lawyer Sexual Relationships are covered in 1.8 Comments (17), (18), and (19).

### **SCR 3.130(1.13) Organization as Client**

Changes to Rule 1.13 provide more specific guidance on a lawyer’s obligation to take action when encountering prospective or active illegal activity while representing an organization. The Rule is complex and requires close reading. Essential features are:

- Lawyers for an organizational client are required to report certain violations of law to higher organizational authority unless reasonably believed not to be necessary in the best interest of the organization (paragraph (b)).
- Lawyers are permitted as an exception to Rule 1.6 to reveal client information to prevent reasonably certain

substantial injury to the organization where the organization’s highest authority insists upon or fails to timely address a clear violation of law (paragraph (c)).

- Lawyer are required to proceed as reasonably believed necessary to assure that the organization’s highest authority is informed of the lawyer’s withdrawal or discharge in circumstances addressed in the Rule (paragraph (e)).

### **SCR 3.130(1.16) Declining or Terminating Representation**

New comments to Rule 1.16 provide guidance on the sensitive issue of returning client files:

- 1.16 Comment (9): Even if the lawyer has been unfairly discharged by the client, a lawyer must take all reasonable steps to mitigate the consequences to the client. A lawyer must return the client’s file, papers, and property after termination if the client requests the file. The lawyer may retain a copy of the file. A lawyer may charge a reasonable copying charge, but may not condition return of a client’s files, papers, and property upon payment of the copying charge, unless the lawyer has previously provided a copy, either during the representation or after cessation of the representation. A lawyer must make one copy of the file and materials available to the client even without payment if the client’s interests will be substantially prejudiced without the documents.
- 1.16 Comment (10): The lawyer may not condition return of the client’s file, papers, and property upon payment of a fee. KRS 376.460 gives a lawyer the right to have payment of fees secured by a judgment the client recovers as a result of the lawyer’s efforts. However, a lawyer may withhold uncompensated work product from the client’s returned files (*e.g.*, draft of pleadings, agreements and the like), unless the client’s interests will be substantially prejudiced without the uncompensated work product. Documents or other relevant evidence, the original or its equivalent that may be required for trial preparation or as evidence for trial or in other legal proceedings, must be surrendered in their original form. See Rule 1.15 for guidance on resolving disputed claims for client funds.

### **SCR 3.130(3.3) Candor Toward the Tribunal**

Rule 3.3(a)(2) is a new paragraph that requires revealing to the tribunal adverse legal authority:

- 3.3(a): A lawyer shall not knowingly:
  - (2) fail to disclose to the tribunal published legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel ....
- 3.3 Comment (4): Legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal. A lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities. Furthermore, as stated in paragraph

(a)(2), an advocate has a duty to disclose directly adverse published authority in the controlling jurisdiction that has not been disclosed by the opposing party. The underlying concept is that legal argument is a discussion seeking to determine the legal premises properly applicable to the case.

### **SCR 3.130(3.4) Fairness to Opposing Party and Counsel**

Rule 3.4(g) is a new paragraph that delineates when it is permissible to request a person other than a client to refrain from voluntarily giving relevant information to another party.

- 3.4: A lawyer shall not:
  - (g) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:
    - (1) the person is a relative or agent who supervises, directs or regularly consults with the client concerning the matter or has authority to obligate the client with respect to the matter;
    - (2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.
  - 3.4 Comment (4): Paragraph (g) permits a lawyer to request relatives or employees or other agents of a client to refrain from giving information to another party. Such persons may identify their interests with those of the client. Caveat Rules 1.13(f), 4.2, and 4.3. The lawyer must reasonably believe that the person's interests will not be adversely affected by compliance with the request. The Rule does not require that the lawyer know or ascertain the person's interest, but any such knowledge, communication, or other information available to the lawyer may suggest that such a belief is not reasonable. See Rule 1.0 (a), (f), (h), (i), and (j). A request that a person refrain from giving information to prosecutors or law enforcement and regulatory officials will almost never be proper, because that person could violate the law or otherwise be adversely affected by a lack of cooperation with such persons, and such a request might involve the lawyer's violations of other provisions of these Rules and other law. A request in a civil matter may or may not be proper under the Rule, depending upon the person's interests in the matter, if any, and upon what a lawyer would reasonably believe in the circumstances.

### **SCR 3.130(3.6) Trial publicity**

Rule 3.6 was substantially changed to come into compliance with current constitutional law on trial publicity. The Rule is reorganized and six new comments added. Mark Rule 3.6 for a careful reading.

### **SCR 3.130(4.1) Truthfulness in Statements to Others**

Paragraph (b) is a major change to Rule 4.1. It provides:

- 4.1: In the course of representing a client a lawyer:

(b) if a false statement of material fact or law has been made, shall take reasonable remedial measures to avoid assisting a fraudulent or criminal act by a client including, if necessary, disclosure of a material fact, unless prohibited by Rule 1.6.

- 4.1 Comment (3) amplifies this requirement. Note that the Comment includes the "noisy withdrawal" remedial action option.

Under Rule 1.2(d), a lawyer is prohibited from counseling or assisting a client in conduct that the lawyer knows is criminal or fraudulent. Paragraph (b) states a specific application of the principle set forth in Rule 1.2(d) and addresses the situation where a client's crime or fraud takes the form of a lie or misrepresentation. Ordinarily a lawyer can avoid assisting in a client's crime or fraud by withdrawing from the representation. Nonetheless, sometimes a lawyer is required to take more overt measures such as giving notice of the fact of withdrawal, disaffirming an opinion, document, affirmation or the like, to prevent the lawyer's services' being used to further the client's crime or fraud. In extreme cases, substantive law may require a lawyer to disclose information relating to the representation to avoid being deemed to have assisted in the client's crime or fraud. If the lawyer can avoid assisting a client's crime or fraud only by disclosing this information, then under paragraph (b) the lawyer is required to do so, unless the disclosure is prohibited by Rule 1.6. [See also, Rules 1.6(b), 1.13 (c) and 8.4(c).]

### **SCR 3.130(4.3) Dealing with Unrepresented Person**

Rule 4.3 now includes a categorical prohibition against rendering legal advice to an unrepresented person and allows the lawyer only to suggest that the unrepresented person may want to secure counsel.

- 4.3: In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person. The lawyer may suggest that the unrepresented person secure counsel.

### **SCR 3.130(4.4) Respect for Rights of Third Persons**

Rule 4.4 codifies the guidance of KBA Ethics Opinion KBA E374 (1995) concerning inadvertently sent documents.

- 4.4 (b): A lawyer who receives a document relating to the representation of the lawyer's client and knows or reasonably should know that the document was inadvertently sent shall:
  - (1) refrain from reading the document,

- (2) promptly notify the sender, and
- (3) abide by the instructions of the sender regarding its disposition.

**SCR 3.130(5.5) Unauthorized Practice of Law; Multijurisdictional Practice of Law**

Rule 5.5 is one of two rules that are substantially revised to address the rapid growth of multijurisdictional practice. The revision of Rule 5.5 includes four new paragraphs and 19 new comments. Mark this Rule for careful reading.

**SCR 3.130 (8.5) Disciplinary Authority; Choice of Law**

Rule 8.5 is the second rule substantially revised to address the rapid growth of multijurisdictional practice. For all practical purposes it is a new rule for Kentucky. The 1990 Rule was adopted before multijurisdictional practice became a major issue for all states. The 2009 Rule reflects the considered evaluation of modern issues of disciplinary authority and choice of law. It is the same or similar to choice of law rule in a majority of other states. Rule 8.5 is another Rule to mark for careful reading.

**Summing Up**

The 1990 Rules were a major step in the development of ethics rules for Kentucky lawyers. It brought us in line with the ABA Model Rules system and many other states. The 1990 Rules, however, omitted some major Model Rules and weakened Rule 1.4, Communication, by changing the imperative ‘shall’ to ‘should’ making it ambiguous and difficult to

enforce. The 2009 Rules correct those omissions and reinstate ‘shall’ in Rule 1.4. Not returning phone calls is now riskier than ever. In addition, the 2009 Rules include much improved comments and cross-references within the comments to related rules. We now have a functional system of professional conduct rules that places Kentucky in the mainstream of current national standards for lawyers. No doubt there will be changes to the 2009 Rules over time, but henceforth the changes will be evolutionary not revolutionary. ©

**ENDNOTES**

1. SCR 3.130.
2. Sarah V. Coker, KBA Deputy Bar Counsel, prepared the advertising rules matrix. The matrix covering all other rules is an update of a matrix prepared as part of the KBA Ethics 2000 Committee report.
3. SCR 3.530(7).
4. In deciding whether misconduct should be reported do not become entangled with KRPC 3.4(f) that provides “A lawyer shall not: present, participate in presenting, or threaten to present criminal or disciplinary charges solely to obtain an advantage in any civil or criminal matter.”
5. ABA Annotated Model Rules of Professional Conduct (6<sup>th</sup> ed.) at page 573.
6. ABA Annotated Model Rules of Professional Conduct (6<sup>th</sup> ed.) at page 574.
7. This list is a modified version of a list prepared by Professor William H. Fortune, College of Law, University of Kentucky, for a presentation at the 2009 KBA Convention.

**The Office of Bar Counsel Quick Reference Guide to Rule 7 of the 2009 Kentucky Rules of Professional Conduct (Advertising)**

ABA Model RPC	1990 KyRPC	No KyRPC Change	Deleted KyRPC	Minor Change	Revised KyRPC	Major Change	Comment
	Rule 7.01	X					
	Rule 7.02			X			"prospective client" changed to match 1.18; blogs are not ads
	Rule 7.03	X					
	Rule 7.04				X		court costs / case expenses language
	Rule 7.05					X	fee increase; late fee
	Rule 7.06				X		Portions unrelated to advisory opinions moved to 7.07
	Rule 7.07					X	"Shall" review changed to "May" review. AAC may refer to IC and notify lawyer
	Rule 7.08				X		former rule stated "the records" of the Commission were available for review; now changed to "all advertisements and the records of all actions taken by the Commission on submitted advertisements"
Rule 7.3	Rule 7.09				X		prospective clients changed to potential clients; requirements for direct mail solicitation clarified
	Rule 7.10	X					
Rule 7.1	Rule 7.15			X			commentary change
Rule 7.2	Rule 7.20				X		disclaimer if client will be referred; commentary change
	Rule 7.25					X	"THIS IS AN ADVERTISEMENT" required on all ads
Rule 7.4	Rule 7.40				X		language required if ad uses "certified"
	Rule 7.50				X		cannot use name of suspended or disbarred attorney in firm name or letterhead

The Ethics 2000 Committee Quick Reference Guide to the 2009 Kentucky Rules of Professional Conduct  
(Does not include Rule 7 on Advertising)

ABA Model RPC	1990 KyRPC	No KyRPC Change	New KyRPC	Deleted KyRPC	Minor Change	Revised KyRPC	Major Change	Comment
Preamble/Scope			X					
Rule 1.0	Terminology						X	Now Rule 1.0.
Rule 1.1	Rule 1.1				X			
Rule 1.2	Rule 1.2					X		
Rule 1.3	Rule 1.3				X			
Rule 1.4	Rule 1.4					X		
Rule 1.5	Rule 1.5						X	
Rule 1.6	Rule 1.6						X	
Rule 1.7	Rule 1.7					X		
Rule 1.8	Rule 1.8						X	
Rule 1.9	Rule 1.9					X		
Rule 1.10	Rule 1.10					X		
Rule 1.11	Rule 1.11					X		
Rule 1.12	Rule 1.12					X		
Rule 1.13	Rule 1.13						X	
Rule 1.14	Rule 1.14					X		
Rule 1.15	Rule 1.15					X		
Rule 1.16	Rule 1.16						X	
Rule 1.17			X					
Rule 1.18			X					
Rule 2.1	Rule 2.1				X			
	Rule 2.2			X				
Rule 2.3	Rule 2.3				X			
Rule 2.4			X					
Rule 3.1	Rule 3.1				X			
Rule 3.2	Rule 3.2				X			
Rule 3.3	Rule 3.3						X	
Rule 3.4	Rule 3.4						X	
Rule 3.5	Rule 3.5				X			
Rule 3.6	Rule 3.6						X	
Rule 3.7	Rule 3.7				X			
Rule 3.8	Rule 3.8					X		
Rule 3.9	Rule 3.9				X			
Rule 4.1	Rule 4.1						X	
Rule 4.2	Rule 4.2					X		
Rule 4.3	Rule 4.3						X	
Rule 4.4	Rule 4.4						X	
Rule 5.1	Rule 5.1				X			
Rule 5.2	Rule 5.2	X						
Rule 5.3	Rule 5.3				X			
Rule 5.4	Rule 5.4				X			
Rule 5.5	Rule 5.5						X	
Rule 5.6	Rule 5.6				X			
Rule 5.7								Model rule not approved.
Rule 6.1	Rule 6.1	X						
Rule 6.2	Rule 6.2	X						
Rule 6.3	Rule 6.3	X						
Rule 6.4	Rule 6.4				X			
Rule 6.5			X					
ABA Model Rules 7.1-7.5 and KRPC 7.01-7.50 cover lawyer advertising. The Ethics 2000 Committee did not review these rules.								
Rule 7.6								Model rule not approved.
	Rule 7.60					X		
Rule 8.1	Rule 8.1				X			
Rule 8.2	Rule 8.2	X						
Rule 8.3			X					
Rule 8.4	Rule 8.3				X			1990 KRPC 8.3, Misconduct, renumbered 8.4.
Rule 8.5	Rule 8.4						X	1990 KRPC, Jurisdiction, renamed and renumbered 8.5.

**KEY**

**No KyRPC Change:** Identical to current KyRPC or very minor editing only.

**New KyRPC:** No 1990 KyRPC covers this subject.

**Deleted KyRPC:** Rule removed in its entirety.

**Minor Change:** Some embellishment or clarification, usually in the Comments.

**Revised KyRPC:** Rule retains its basic intent, may include some expansion of scope, may add new conduct to be regulated, may have extensive addition to Comments to embellish and clarify application of a Rule, and may be reorganized.

**Major Change:** Rule includes new provisions that involve significant principles of professional responsibility and/or basis for disciplinary action.