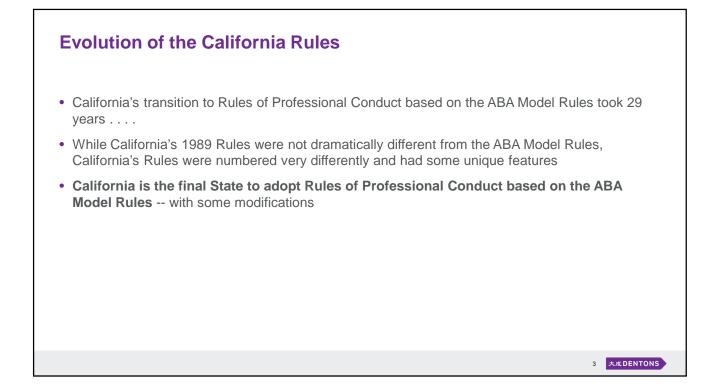
## Everything You Need to Know About the New California Rules of Professional Conduct

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## Agenda

- A Brief History of the Long Evolution of the New California Rules of Professional Conduct
- · Organization of the New California Rules
- Significant Changes to the California Rules
- Rules with Minor Revisions
- · Comparison Charts for ABA Model Rules and California Rules, Old and New



## **Organization of the New California Rules**

- California's 46 prior Rules now are replaced with 69 Rules
- The California Rules now mirror the ABA's numbering system
  - · Permits easier comparison of Rules across jurisdictions
  - · Will facilitate legal research of ethics opinions and judicial decisions in other states

## **Significant Changes to the California Rules**

- · California's Rules continue to be among the most stringent in the United States
  - · Continued emphasis on professional integrity and protection of clients
- · New Rules offer increased specificity, and interpretation guidance
  - · Comments to Rules have been expanded to provide more clarity
  - Terms defined in the Rules are asterisked
  - "Person" now defined in Rules consistently with Avid. Code 175

## Significant Changes: Discrimination, Harassment and Retaliation

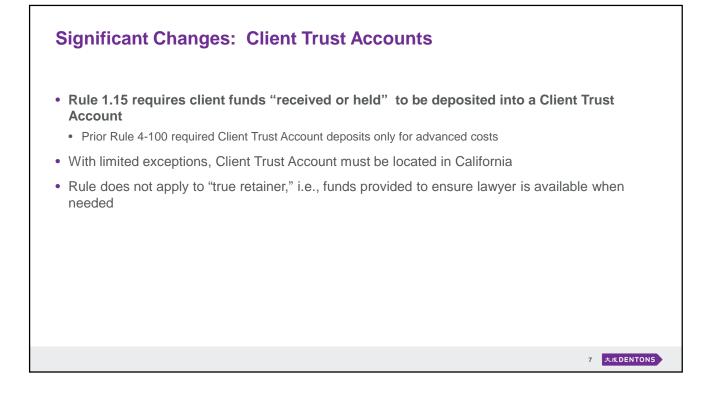
- Rule 8.4.1 removes a fundamental gate from prior Rule 2-400
  - Prior Rule prohibited unlawful discrimination, harassment or retaliation in connection with the representation of a client, refusal to accept representation, or law firm operations; **BUT** Rule required a civil "adjudicated complaint" of unlawful conduct before the Bar could investigate or discipline

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- · New Rule eliminates the prerequisite of a civil determination
- Rule 8.4.1(a) prohibits the "unlawful" harassment of or discrimination against a person on the basis of a "protected characteristic"
  - Rule also prohibits "unlawful retaliation" against any person
- Rule 8.4.1(e) requires notice of disciplinary charge until 8.4.1(a) to be provided by the lawyer to DFEH and DOJ

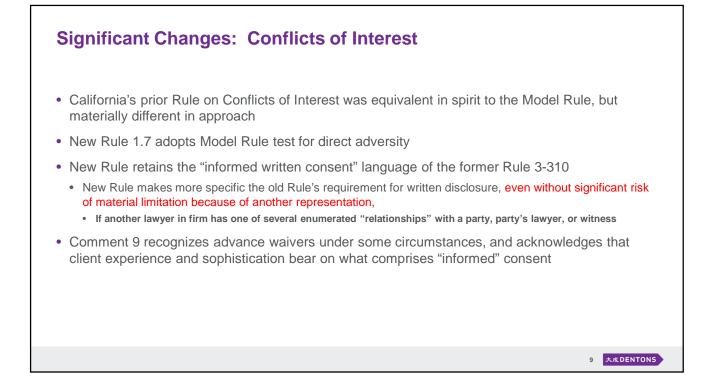


## Significant Changes: Sexual Relations with Clients

- Prior Rule focused on eliminating quid pro quo sexual relationships with clients, coerced relations, and relations resulting in incompetent representation
- New Rule 1.8.10 prohibits sexual relations with clients, unless client is
  - Spouse
  - Registered domestic partner
  - Sexual relationship pre-existing the lawyer-client relationship
  - When client is an organization, Rule applies to person overseeing the representation (Comment 2)

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• Rule 1.8.10 substantially adopts the prohibitions of ABA Model Rule 1.8(j)



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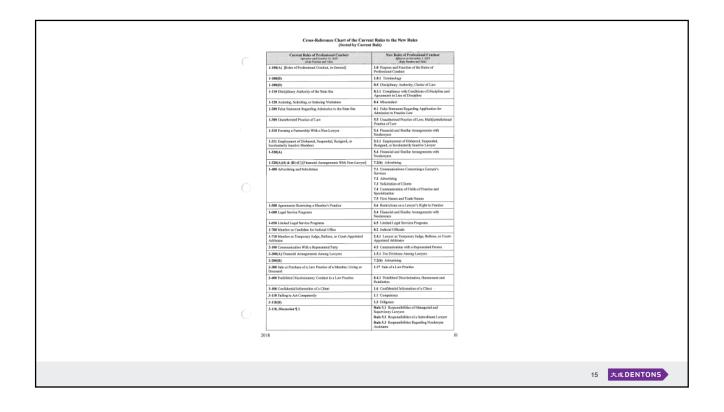
## Some New California Rules Reflect Differences in Philosophy From Model Rules

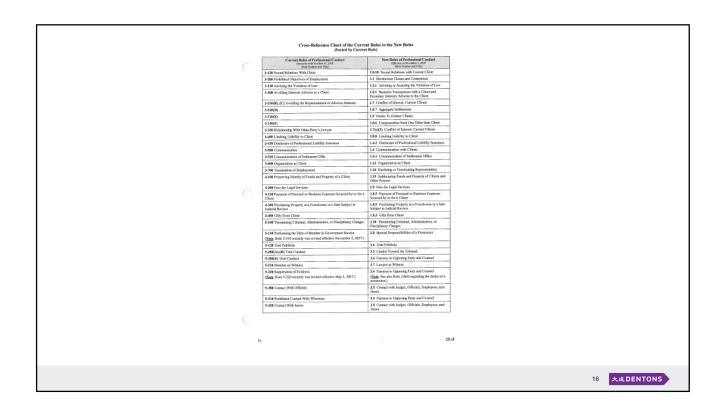
- Rule 1.4.2 requires written disclosure to client of lack of, or material change in, malpractice insurance coverage
- ABA Model Rules prohibit unreasonable or excessive fees; California Rule 1.5 prohibits only "unconscionable" fees, without reference to market rates
- California Rule 1.5.1 permits a referring lawyer to split fees, without doing any work or retaining any liability, unlike the Model Rules or NY Rule; client must consent in writing
- California Rule 1.7(a) requires "informed written consent" **from the client**, unlike Model Rule's requirement for written confirmation by lawyer that he/she made disclosure to the client

## **Only One Model Rule Rejected by California**

 ABA Model Rule 1.14, "Clients with Diminished Capacity," was rejected in its entirety, without explanation

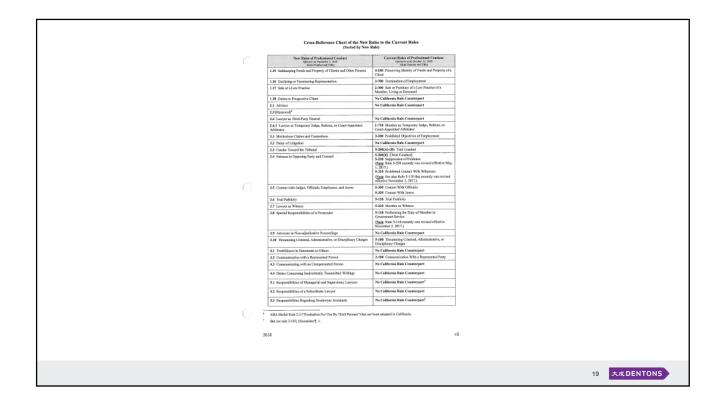
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4.1 Monthen by 1: Equip forms in Properties 4.2 Monthen by 1: Equip forms in Properties 4.3 Monthen by 1: Equip forms in Properties 4.3 Monthen by 1: Equip forms in Properties 4.3 Monthen by 1: Equip forms in Properties 1.3 Concentration of Content Equipy in Society 1.3 Concentration of Content Equipy in Society 1.3 Monthen by 1: Equip forms in Properties 1.4 Monthen by 1: Equip forms in Propering for Monthen 1.4 Monthen by 1: Equip forms in Propering for Monthen 1.4 Monthen by 1: Equip forms in Propering for Monthen 1.4 Monthen by 1: Equip forms in Propering for Monthen 1.4 Monthen by 1: Equip forms in Propering for Monthen 1.4 Monthen by 1: Equip forms in Propering for Monthen 1.4 Monthen by 1: Equip forms in Propering for Monthen 1.4 Monthen by 1: Equip for Monthen 1.4 Monthen by 1: Equip form in Pr		5.5 Unanthorized Practice of Law; Multijorisdictional Practice of Law	1-300 Unauthorized Practice of Law	
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	C	<ol> <li>ABA Model Rule 7.6 ("Polisind Coonthetices To Obtain Legal Inapp California.</li> <li>ABA Model Rule 8.3 ("Reporting Profactional Misconduct") has not b</li> </ol>	reen subspired in California.	

## Thank you!

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