



Dear Ethics Lawyer™

The Legal Ethics Project. Supporting professionalism with information.

Q: Dear Ethics Lawyer,

I met my life partner in law school and am now happily married. We both practice law and we enjoy sharing with each other the experiences and challenges of our professional lives. Today, I began work on a type of matter that my spouse has handled before, so I'd like to explain the situation to them confidentially (we've agreed we would never share with others anything we discuss between us) and ask for their input on some aspects of it. Are there issues with this? What if we talk only in hypotheticals, without identifying parties or the specific matter?

A: Congratulations on your great relationship and your commitment to communication to keep it that way. But there are professional limitations to sharing with your life partner. There is no spousal (or other) exception to Model Rule 1.6's protection of confidential information (all "information relating to the representation of a client"). In addition, any disclosure of privileged information of a client to your spouse, as a person not within the privilege umbrella for that client, could possibly constitute a waiver of privilege. If discovered, these facts could create serious adverse consequences for you and your client(s). Even if not discovered, this places you in violation of rules you've committed to follow.

You also ask about the use of hypotheticals. There is no prohibition in the rules about discussion of legal issues in the abstract, disconnected from information relating to actual client representation. But be very careful proceeding in this manner, so that the context of the discussion does not (expressly or implicitly) reveal the identity or information of a client.

The Ethics Lawyer

About Dear Ethics Lawyer

The twice-monthly "Dear Ethics Lawyer" column is part of a training regimen of the Legal Ethics Project, authored by [Mark Hinderks](#), former managing partner and counsel to an AmLaw 125 firm; Fellow, American College of Trial Lawyers; and speaker/author on professional responsibility for more than 25 years. Mark leads Stinson LLP's [Legal Ethics & Professional Responsibility](#) practice, offering advice and "second opinions" to

lawyers and law firms, consulting and testifying expert service, training, mediation/arbitration and representation in malpractice litigation. The submission of questions for future columns is welcome: please send to mark.hinderks@stinson.com.

Discussion presented here is based on the ABA Model Rules of Professional Conduct, but the Model Rules are adopted in different and amended versions, and interpreted in different ways in various places. Always check the rules and authorities applicable in your relevant jurisdiction – the result may be completely different.