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**E-88-7      Family law practice by lawyer with  
social worker spouse**

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**Question**

May an attorney or the attorney's law firm represent a party to a divorce action as counsel for petitioner, respondent or guardian ad litem for the children in such a divorce action when the attorney's spouse is the sole social worker in the county responsible for custody studies and domestic abuse studies?

**Opinion**

The Rules of Professional Conduct for Attorneys (SCR chapter 20, effective Jan. 1, 1988) do not prohibit the representation described in the question. *See* SCR 20:1.8(i). Several opinions issued by this committee prior to Jan. 1, 1988, are in accord. *See, e.g.*, Formal Ops. E-86-1 and E-85-2.

Regarding possible imputed disqualification of other members of the lawyer's firm based solely on the spousal relationship, the committee points out that even as to lawyer spouses there would be no imputed disqualification.

*See* SCR 20:1.8(i) and comment, *See also* Hazard & Hodes, *The Law of Lawyering* (1987 Supp.) at 171. The rationale, therefore, for imputed disqualification in the case of lawyer-nonlawyer spouses would be even more tenuous.

However, although the lawyer spouse is not expressly prohibited from engaging in representation under the circumstances described in the question, circumstances may exist in particular cases that would require the lawyer to decline the representation or obtain the informed written consent of his or her client to the representation. *See* SCR 20:1.4 and SCR 20:1.7(b). Since all clients might reasonably have some concerns about a lawyer's ability to effectively represent them when the lawyer's spouse is involved in the matter in an independent capacity, the committee recommends that lawyers undertaking such representation routinely comply with SCR 20:1.7(b) disclosure and consent provisions.