

	<p style="text-align: center;"><b>American Bar Association CPR Policy Implementation Committee</b></p> <p style="text-align: center;"><b>Variations of the ABA Model Rules of Professional Conduct Rule 1.8(j)</b></p> <p style="text-align: center;">(j) A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.</p> <p>Variations from ABA model rule are noted. Based on reports of state committees reviewing recent changes to the model rules. For information on individual state committee reports, see <a href="http://www.abanet.org/cpr/jclr/home.html">http://www.abanet.org/cpr/jclr/home.html</a>.</p> <p>Comments not included.</p>
<p><a href="#">AL</a> Effective 2/19/09</p>	<p>(l) is equivalent to MR (j): <i>(l) A lawyer shall not engage in sexual conduct with a client or representative of a client that exploits or adversely affects the interests of the client or the lawyer-client relationship, including, but not limited to:</i> <i>(1) requiring or demanding sexual relations with a client or a representative of a client incident to or as a condition of legal representation;</i> <i>(2) contract with a client for a reasonable contingent fee in a civil case.</i></p>
<p><a href="#">AK</a> Effective 4/15/09</p>	<p>Similar to MR (j) but adds: <i>...and the sexual relationship does not create a conflict under Rule 1.7(a)(2). For purposes of this rule, when the client is an organization, “client” means a constituent of the organization who supervises, directs, or regularly consults with that lawyer concerning the organization's legal matters. See Rule 1.13(f) for the definition of “constituent.</i></p>
<p><a href="#">AZ</a> Effective 12/1/03</p>	<p>Same as MR</p>
<p><a href="#">AR</a> Effective 5/1/05</p>	<p>Same as MR</p>
<p><a href="#">CA</a> Effective 9/1/09</p>	<p><b>Rule 3-120: Sexual Relations With Client</b> <i>(A) For purposes of this Rule, “sexual relations” means sexual intercourse or the touching of an intimate part of another person for the purpose of sexual arousal, gratification, or abuse.</i> <i>(B) A lawyer shall not:</i> <i>(1) Require or demand sexual relations with a client incident to or as a condition of any professional representation; or</i></p>

	<p>(2) <i>Employ coercion, intimidation, or undue influence in entering into sexual relations with a client; or</i></p> <p>(3) <i>Continue representation of a client with whom the lawyer has sexual relations if such sexual relations cause the lawyer to perform legal services incompetently in violation of Rule 3-110.</i></p> <p>(C) <i>Paragraph (B) shall not apply to sexual relations between members and their spouses or to ongoing consensual sexual relationships which predate the initiation of the lawyer-client relationship.</i></p> <p>(D) <i>Where a lawyer in a firm has sexual relations with a client but does not participate in the representation of that client, the lawyers in the firm shall not be subject to discipline under this rule solely because of the occurrence of such sexual relations.</i></p>
<p><a href="#">CO</a> Effective 1/1/08</p>	Same as MR
<p><a href="#">CT</a> Effective 1/1/07</p>	Same as MR
<p><a href="#">DE</a> Effective 7/1/03</p>	Same as MR
<p><a href="#">District of Columbia</a> Effective 2/1/07</p>	<p>Did not adopt</p> <p>In Rule 1.7, adds:</p> <p>[37] The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. Because of this fiduciary duty to clients, combining a professional relationship with any intimate personal relationship may raise concerns about conflict of interest, impairment of the judgment of both lawyer and client, and preservation of attorney-client privilege. These concerns may be particularly acute when a lawyer has a sexual relationship with a client. Such a relationship may create a conflict of interest under Rule 1.7(b)(4) or violate other disciplinary rules, and it generally is imprudent even in the absence of an actual violation of these Rules.</p> <p>[38] Especially when the client is an individual, the client's dependence on the lawyer's knowledge of the law is likely to make the relationship between lawyer and client unequal. A sexual relationship between lawyer and client can involve unfair exploitation of the lawyer's fiduciary role and thereby violate the lawyer's basic obligation not to use the trust of the client to the client's disadvantage. In addition, such a relationship presents a significant risk that the lawyer's emotional involvement will impair the lawyer's independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict the extent to which client confidences will be protected by the attorney-client privilege, because client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. The client's own emotional involvement may make it</p>

	<p>impossible for the client to give informed consent to these risks.</p> <p>[39] Sexual relationships with the representative of an organization client may not present the same questions of inherent inequality as the relationship with an individual client. Nonetheless, impairment of the lawyer’s independent professional judgment and protection of the attorney-client privilege are still of concern, particularly if outside counsel has a sexual relationship with a representative of the organization who supervises, directs, or regularly consults with an outside lawyer concerning the organization’s legal matters. An in-house employee in an intimate personal relationship with outside counsel may not be able to assess and waive any conflict of interest for the organization because of the employee’s personal involvement, and another representative of the organization may be required to determine whether to give informed consent to a waiver. The lawyer should consider not only the disciplinary rules but also the organization’s personnel policies regarding sexual relationships (for example, prohibiting such relationships between supervisors and subordinates).</p>
<p><a href="#">FL</a> Effective 5/22/06</p>	<p>Does not adopt Rule 1.8(j). In Rule 8.4, adds as (i): <i>(i) engage in sexual conduct with a client or a representative of a client that exploits or adversely affects the interests of the client or the lawyer-client relationship including, but not limited to:</i></p> <ul style="list-style-type: none"> <li><i>(1) requiring or demanding sexual relations with a client or a representative of a client incident to or as a condition of a legal representation;</i></li> <li><i>(2) employing coercion, intimidation, or undue influence in entering into sexual relations with a client or a representative of a client; or</i></li> <li><i>(3) continuing to represent a client if the lawyer's sexual relations with the client or a representative of the client cause the lawyer to render incompetent representation.</i></li> </ul>
<p><a href="#">ID</a> Effective 7/1/04</p>	<p>Same as MR</p>
<p><a href="#">IL</a> Effective 1/1/2010</p>	<p>Same as MR</p>
<p><a href="#">IN</a> Effective 1/1/05</p>	<p>Same as MR</p>
<p><a href="#">IA</a> Effective 7/1/05</p>	<p><i>A lawyer shall not have sexual relations with a client, or a representative of a client, unless the person is the spouse of the lawyer or the sexual relationship predates the initiation of the lawyer-client relationship. Even in these provisionally exempt relationships, the lawyer should strictly scrutinize the lawyer’s behavior for any conflicts of interest to determine if any harm may result to the client or to the representation. If there is any</i></p>

	<i>reasonable possibility that the legal representation of the client may be impaired, or the client harmed by the continuation of the sexual relationship, the lawyer should immediately withdraw from the legal representation.</i>
<a href="#">KS</a> Effective 7/1/07	Same as MR
<a href="#">KY</a> Effective 7/15/09	Same as MR
<a href="#">LA</a> Effective 3/1/04	does not add 1.8(j)
<a href="#">ME</a> Effective 8/1/09	Has not adopted. Rule 1.7 Comment [12] <i>Maine has not adopted the ABA Model Rules' categorical prohibition on an attorney forming a sexual relationship with an existing client because such a rule seems unnecessary to address true disciplinary problems and it threatens to make disciplinary issues out of conduct that we do not believe should be a matter of attorney discipline. However, the lack of a categorical prohibition should not be construed as an implicit approval of such relationships. Attorneys have been disciplined under the former Maine Code of Professional Responsibility for entering into sexual relations with clients, and they may be disciplined for similar conduct under these rules. The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. In certain types of representations such as family or juvenile matters, the relationship is almost always unequal; thus, a sexual relationship between lawyer and client in such circumstance may involve unfair exploitation of the lawyer's fiduciary role, in violation of the lawyer's basic ethical obligation not to use the trust of the client to the client's disadvantage. In addition, such a relationship presents a significant danger that, because of the lawyer's emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict to what extent client confidences will be protected by the attorney-client evidentiary privilege, since client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. Before proceeding with the representation in these circumstances, the lawyer should consider whether the lawyer's ability to represent the client will be materially limited by the sexual relationship.</i>
<a href="#">MD</a> Effective 7/1/05	Has not adopted. In Rule 1.7, adds: [12] A sexual relationship with a client, whether or not in violation of criminal law, will create an impermissible conflict between the interests of the client and those of the lawyer if (1) the representation of the client

	would be materially limited by the sexual relationship and (2) it is unreasonable for the lawyer to believe the lawyer can provide competent and diligent representation. Under those circumstances, informed consent by the client is ineffective. See also Rule 8.4.
<a href="#">MI</a> (as proposed July 2004)	Did not add
<a href="#">MN</a> Effective 10/1/05	adds at the end: For purposes of this paragraph: (1) “sexual relations” means sexual intercourse or any other intentional touching of the intimate parts of a person or causing the person to touch the intimate parts of the lawyer; (2) if the client is an organization, any individual who oversees the representation and gives instructions to the lawyer on behalf of the organization shall be deemed to be the client. In-house attorneys while representing governmental or corporate entities are governed by Rule 1.7 rather than by this rule with respect to sexual relations with other employees of the entity they represent; (3) this paragraph does not prohibit a lawyer from engaging in sexual relations with a client of the lawyer’s firm provided that the lawyer has no involvement in the performance of the legal work for the client; (4) if a party other than the client alleges violation of this paragraph, and the complaint is not summarily dismissed, the Director of the Office of Lawyers Professional Responsibility, in determining whether to investigate the allegation and whether to charge any violation based on the allegations, shall consider the client’s statement regarding whether the client would be unduly burdened by the investigation or charge.
<a href="#">MS</a> Effective 11/3/05	Did not add
<a href="#">MO</a> Effective 7/1/07	Same as MR
<a href="#">MT</a> Effective 4/1/04	Same as MR
<a href="#">NE</a> Effective 9/1/05	Same as MR
<a href="#">NV</a> Effective 5/1/06	Adds: This paragraph does not apply when the client is an organization.
<a href="#">NH</a> Effective 1/1/08	Same as MR
<a href="#">NJ</a> Effective	Did not add

1/1/04	
<p><a href="#">NY</a> Effective 4/1/09</p>	<p>(j) (1) A lawyer shall not:</p> <ul style="list-style-type: none"> <li>(i) as a condition of entering into or continuing any professional representation by the lawyer or the lawyer's firm, require or demand sexual relations with any person;</li> <li>(ii) employ coercion, intimidation or undue influence in entering into sexual relations incident to any professional representation by the lawyer or the lawyer's firm; or</li> <li>(iii) in domestic relations matters, enter into sexual relations with a client during the course of the lawyer's representation of the client.</li> </ul> <p>(2) Rule 1.8(j)(1) shall not apply to sexual relations between lawyers and their spouses or to ongoing consensual sexual relationships that predate the initiation of the client-lawyer relationship.</p>
<p><a href="#">NC</a> Effective 3/1/03</p>	<p><i>Rule 1.19 Sexual Relations with Clients Prohibited</i></p> <p>(a) A lawyer shall not have sexual relations with a current client of the lawyer.</p> <p>(b) Paragraph (a) shall not apply if a consensual sexual relationship existed between the lawyer and the client before the legal representation commenced.</p> <p>(c) A lawyer shall not require or demand sexual relations with a client incident to or as a condition of any professional representation.</p> <p>(d) For purposes of this rule, "sexual relations" means:</p> <ul style="list-style-type: none"> <li>(1) Sexual intercourse; or</li> <li>(2) Any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the lawyer for the purpose of arousing or gratifying the sexual desire of either party.</li> </ul> <p>(e) For purposes of this rule, "lawyer" means any lawyer who assists in the representation of the client but does not include other lawyers in a firm who provide no such assistance.</p>
<p><a href="#">ND</a> Effective 8/1/06</p>	<p>Same as MR</p>
<p><a href="#">OH</a> Effective 2/1/07</p>	<p>Replaces "shall not have sexual relations" with "shall not solicit or engage in sexual activity"</p>
<p><a href="#">OK</a> Effective 1/1/08</p>	<p>Same as MR but makes text after "unless" (1) and adds "and (2) the relationship does not result in a violation of Rule 1.7(a)(2)" to end</p>
<p><a href="#">OR</a> Effective 12/1/06</p>	<p>(j) A lawyer shall not have sexual relations with a current client of the lawyer unless a consensual sexual relationship existed between them before the client-lawyer relationship commenced; or have sexual relations with a representative of a current client of the lawyer if the sexual relations would, or would likely, damage or prejudice the client in the representation. For purposes of this rule:</p> <p>(1) "sexual relations" means sexual intercourse or any touching of the</p>

	sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the lawyer for the purpose of arousing or gratifying the sexual desire of either party; and (2) "lawyer" means any lawyer who assists in the representation of the client, but does not include other firm members who provide no such assistance.
<a href="#">PA</a> Effective 7/1/06	Same as MR
<a href="#">RI</a> Effective 4/15/07	Did not adopt
<a href="#">SC</a> Effective 10/1/05	(m) A lawyer shall not have sexual relations with a client when the client is in a vulnerable condition or is otherwise subject to the control or undue influence of the lawyer, when such relations could have a harmful or prejudicial effect upon the interests of the client, or when sexual relations might adversely effect the lawyer's representation of the client.
<a href="#">SD</a> Effective 1/1/04	Same as MR
<a href="#">TN</a> Effective 1/1/2011	[Reserved]
<a href="#">UT</a> Effective 11/1/05	<i>A lawyer shall not engage in sexual relations with a client that exploits the client-lawyer relationship. For the purposes of this Rule: (j)(1) "sexual relations" means sexual intercourse or the touching of an intimate part of another person for the purpose of sexual arousal, gratification or abuse; and (j)(2) except for a spousal relationship or a sexual relationship that existed at the commencement of the client-lawyer relationship, sexual relations between the lawyer and the client shall be presumed to be exploitative. The presumption is rebuttable.</i>
<a href="#">VT</a> Effective 9/1/09	Does not adopt. 1.8 Comment: [17] is same as MR but replaces last sentence with "For all of these reasons, lawyers are cautioned that sexual relations with a current client could give rise to claims of incompetence under Rule 1.1, of lack of diligence under Rule 1.3, of a conflict with the lawyer's personal interests under Rule 1.7(a)(2), of using client information to the client's disadvantage under Rule 1.8(b), of conduct involving dishonesty or the like under Rule 8.4(c), or of conduct prejudicial to the administration of justice under Rule 8.4(d)." Does not adopt. MR Comments [18] and [19].
<a href="#">VA</a> Effective 1/1/04	Does not adopt.
<a href="#">WA</a>	Current MR is (1) but adds "current" before "client".

<p>Effective 9/1/06</p>	<p>Adds: (2) <i>have sexual relations with a representative of a current client if the sexual relations would, or would likely, damage or prejudice the client in the representation.</i> (3) <i>For purposes of Rule 1.8(j), "lawyer" means any lawyer who assists in the representation of the client, but does not include other firm members who provide no such assistance.</i></p>
<p><a href="#">WI</a> Effective 7/1/07</p>	<p>Adds "current" before "client" Adds: (1) <i>In this paragraph, "sexual relations" means sexual intercourse or any other intentional touching of the intimate parts of a person or causing the person to touch the intimate parts of the lawyer.</i> (2) <i>When the client is an organization, a lawyer for the organization (whether inside counsel or outside counsel) shall not have sexual relations with a constituent of the organization who supervises, directs or regularly consults with that lawyer concerning the organization's legal matters.</i></p>
<p><a href="#">WY</a> Effective 7/1/06</p>	<p>Similar to MR but adds "current" before "client" in first clause, adds to end: "or unless the lawyer and client are married. A lawyer shall not have sexual relations with the spouse of a current client."</p>

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