

# Ethical Scenarios in Technology

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# Ethical Scenarios in Technology

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## Agenda

- AI (Artificial Intelligence) capabilities at this time
- Why AI ethics matter for lawyers
- Common AI-driven ethical dilemmas
- Florida Bar Rules implicated
- Florida Bar Ethics Opinion 24-1 (Jan. 2024) (hereinafter FL Bar Op. 24-1)
- Practical guidance and takeaways



## Definitions

- AI (Artificial Intelligence)
- Generative AI (for this program AI)
  - Deep Learning models which
  - Generates probable outputs (after programming)
- Self-learning AI
  - Stores information for its learning process for use with other users



## What are the Capacities of AI

- What can AI do
  - Analyze documents
  - Draft documents
  - Automate workflow
  - Save time which in turn saves \$\$\$\$
- What does AI not have
  - Morals
  - Clear understanding of what is right and wrong



## Why AI Ethics Matter

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- AI tools increase efficiency but raise ethical risks
- Lawyers remain fully responsible for AI-assisted work
- Florida Bar has issued explicit guidance on generative AI
  - FL Bar Op. 24-1



## Scenario 1: Billing & AI Efficiency

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- Lawyer drafts motion using ChatGPT in minutes
- Traditional drafting would take several hours
- Ethical question: How much time may be billed?
  
- Hint: Think about an associate who works very fast



## Florida Rules: Billing with AI

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- Rule 4-1.5 – Fees must be reasonable
- No billing for time not actually spent
- AI efficiency does not justify inflated billing
- FL Bar Op. 24-1



## Scenario 2: AI Hallucinations

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- AI generates non-existent cases or incorrect law
  - This is the no morals point
- Lawyer relies on output without verification
  - Would you do this with an associate?
- Court filing contains false citations



## Florida Rules: Competence & Supervision

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- Rule 4-1.1 – Duty of competence
- Lawyers must understand AI limitations
- Rules 4-5.1 & 4-5.3 – Supervision duties
- FL Bar Op. 24-1: Lawyer must verify AI output



## Scenario 3: Confidentiality & AI

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- Lawyer uploads client documents into public AI platform
- Sensitive client information is disclosed
- AI vendor may store or reuse data



## Confidentiality

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- 16 CFR Sec. 313 – definitions
- 16 CFR Sec. 314 – safeguarding customer information
- Sec. 501, F.S. – Florida rules for NPI
- Rule 4-1.6 – Duty to protect client information
  - Reasonable efforts to prevent
  - Inadvertent or
  - Unauthorized disclosure
- FL Bar Op. 24-1



## Scenario 4: Client Awareness of AI Use

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- Client assumes lawyer personally drafts all work
- AI is heavily used without disclosure
- Question: Is disclosure required?



## Florida Rules: Client Communication

- Rule 4-1.4 – Duty to communicate
  - “[M]eans by which the client’s objectives are to be accomplished;”  
RR FL Bar Rule 4-1.4(a)(2)
- FL Bar Op. 24-1
  - AI is a third-party program
  - If it is “generative” it is self-learning”
    - As such client information may be stored within the program for future use
  - Client needs to be informed



## Scenario 5: AI Chatbots & Intake

- Firm uses AI chatbot on website
- Bot answers legal questions
- Bot answers legal questions



## Florida Rules: Advertising & AI

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- Subchapter 4-7 – Lawyer advertising rules
- No misleading communications
- AI chatbots require disclaimers
- RR FL Bar, Rule 4-7.13
- FL Bar Op. 24-1



## Scenario 6: Candor to the Court

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- AI generates persuasive but misleading arguments
- Lawyer files without full review
- False statements reach the court



## Florida Rules: Candor

- Rule 4-3.3 (a) – Candor toward the tribunal
  - Not knowingly make a false statement to the tribunal of
    - Fact
    - Material fact (or omit)
    - Other legal authority not supporting attorney's case
- Rule 4-4.1 – Truthfulness to others
  - Not knowingly make false statements
- AI use does not excuse errors



## Scenario 7: Cloud Storage of Client Files

- A lawyer wishes to store sensitive client files in a cloud service without first verifying encryption or access controls
- Duty to safeguard data in digital storage
- Rule 4-1.6 (Confidentiality)
- Rule 4-1.1 (Competence in technology)
- Florida Bar Ethics Opinion 12-3 (2013)(Cloud computing):  
Must research provider security, ensure access and maintain confidentiality in cloud computing



## Scenario 7.5: Disposal of 'Smart' Copiers

- Scenario: Law firm leases 'smart' copier; at lease end, elects to return the copier
- Duty to sanitize prior to disposal
- 16 CFR Sec. 682 – must take reasonable efforts to protect
- Florida Bar Ethics Opinion 10-2 (2010): Inventory devices and sanitize before disposal



## Rule 7 & 7.5: Confidentiality & NPI

- The Bar has long advised taking precautions before using cloud services or third-party tech to store client data—this is directly relevant to AI tools that process or store client info
- **Florida Bar Ethics Opinion 06-2**
  - Addresses reasonable steps to safeguard confidentiality in electronic communications



## Key Takeaways for Florida Lawyers

- AI is a tool, not a decision-maker
  - AI did not pass the Bar
  - Supervise as you would a new associate or paralegal
- Lawyers remain ethically accountable
- Always verify all AI output
- Protect confidentiality
- Bill reasonably
- Transparently - client consent
- Disclaimers



*Thank You!*  
for attending