

**Chapter 1 - The Necessity for Automating the Practice of**

## **Technology Ethical Considerations**

As technology changes and impacts the practice of law, how does it affect the scope of liability for our actions? At what point does technological advancement cease to be merely our preference, but instead mandated by our ethical obligations as lawyers? Do we have an obligation to use e-mail, incorporate automated legal and non-legal research, document assembly, full text search systems, and the latest document imaging? If technology is available at a low cost to search a deposition in seconds for key testimony, is it unethical to charge your client for the hours it takes you to do it manually? These are becoming difficult questions as we transition into the technology age. The recurring question is, have our actions been reasonable in light of the changing technology environment?

For an excellent up-to-date [web site discussion](#) on legal ethics expert Peter Krakaur explores the ma

Once we begin using technology, whole new sets of ethical issues arise. For example, is it ethically proper to use e-mail without encryption? What is the impact of participating and providing advice in newsgroups, chatrooms and listservs? Should we use cookies as we surf the web for case information? Are there sniffers or spoofers on your system? Are you providing adequate safeguards for on-line attempts to infiltrate your computer system? What about off-line safeguards such as undoing the UNDELETE command on your files created in a word processor.

These are a few of the issues that are arising as we transition to a digital practice from an analog system. Attorneys frequently encounter issues implicating ethical and professional considerations in the application and non-application of technology in their practices.

The framework for the law guiding the conduct of attorneys consists of the ABA Model Rules of Professional Conduct (adopted by the ABA in 1983 to replace the Model Code of Professional Responsibility and adopted by the majority of states), the ABA Model Code of Professional Responsibility (adopted by the ABA in 1969 and still followed in the minority of jurisdictions), the opinions of ethics advisory committees of the ABA and the states, and the decisions of federal and state courts concerning professional conduct.

It is important that one check the specific state ethic rules and cases for specific guidance on your special circumstances. State by state rules are located at [www.legalethics.com](http://www.legalethics.com). This ethics web site now offers the following direct links for each state:

- Advertising Rules;
- Confidentiality Rules;
- Ethics Opinions;
- Bar Association;
- Disciplinary Contact Information; and
- Government Ethics (ethics commissions, lobbyist databases, election agencies, candidate finance data; and independent organizations tracking government ethics.

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