

Chapter 1 - The Necessity for Automating the Practice of

Ethical Issues Involved in Using Technology

Once we begin automating, what are our ethical obligations? New ethical issues requiring new standards of care are constantly arising as a result of the technology changeover. Losing client data or allowing client confidences to be accessible by unauthorized individuals are a few of the ethical issues that must be addressed. Always check the latest ethics opinions. Many office computer disasters and possible ethical violations can be avoided if certain precautions are taken. The following is a short list of the increased scrutiny the legal profession will be expected to address as the technology revolution continues.

Office systems:

- Prevent unauthorized users from using your desktop;
- Ensure passwords are locked up and unusual in origin;
- Back up your system and have a disaster recovery plan;
- Diligently use anti-virus software, even on manufacturer's disks;
- Have two or more people familiar with your computer system, preferably one being an outside consultant;
- Select an outside consultant who maintains confidences;
- Surge protectors and temporary power suppliers should be installed and checked on a routine basis;
- Decide who gets access to information and provide consequences for unauthorized access or attempt to access;
- Preclude access to key areas of the computer operating system;
- Immediately determine the risks of disgruntled employees and act accordingly;
- Use anti-virus software on e-mail that has an attachment;
- Learn how the paralegal and secretary use their computers and where certain case computer files are located; and
- Keep kids and others away from your computer at home or at work.

Work product

- Use the spell checker and grammar corrector before submitting documents, however grammar checkers and spell checkers are not proofreaders;

By using computers to make the system more accessible, lawyers can increase public satisfaction with the system and decrease the cost of the system.

- Proofread documents that are produced from document assembly systems;
- Understand the changing jurisdictional issues as a result of the Internet;
- Request electronic data from the opposing party during discovery;
- Use a computer for legal and factual research;

In word processors, there is a feature called UNDO that enables a user to undo the last command. For example, if you send an electronic note as part of draft contract to your client and your client read and then deleted the note, it can still be retrieved. The other party would just have to UNDO the last command and they could see the note to your client in the electronic contract. Some word processors allow you to UNDO up to 300 of your last changes. Be sure and remove the UNDO feature from the document before it is sent on to the opposing party;

- Do not send old diskettes to opposing counsel, since old files can be easily undeleted.

Internet and e-mail usage:

- Maintain an e-mail policy with employees. Tell them e-mail is subject to review and disclosure pursuant to court order, public record law or office policy;
- Advise clients on use of e-mail and the need for encryption;
- Can a hacker get into my system? Even if you are not on the Internet, can he call up our office's computer and see sensitive information? What security measures have I put in place?
- Stop unauthorized use of your name to any e-mail;
- Ensure e-mail confidentiality – use encryption. However, hackers generally will hack into the server where the e-mail resides, not intercept it on the Internet.
- Is your advertising and solicitation on the WWW in conformance with ethical standards?
- What are the implications of providing legal advice over the Internet?

Phones

- Conversations on cellular phones can be intercepted; Cellular phones pose significant

risks as to the confidentiality of attorney client communications.

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