CLIENT ALERTS & INSIGHTS

Ohio Board of Professional Conduct Issues Ohio Ethics Guide on Artificial Intelligence for Lawyers and Judicial Officers

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Featured Practices: Litigation, Artificial Intelligence (AI)

Featured Industries: Energy

Key Takeaways

- The Ohio Supreme Court's Board of Professional Conduct has issued new ethics guidance recognizing that AI can now be "correctly defined as a 'relevant technology' to the practice of law" and as such lawyers are duty bound to keep abreast of the risks and benefits of its use.
- Lawyers, both outside and in-house counsel, risk breaching confidentiality or waiving privilege by disclosing materials to AI tools, especially while using unsecured or public platforms. Additionally, Ohio courts differ in their rules on AI use, with some requiring disclosure and others prohibiting generative AI in filings.
- Attorneys should thoroughly vet AI tools for privacy and security, stay current on local court rules regarding AI, and ensure they are competent in any technology they use to avoid ethical pitfalls and maintain compliance.

On June 2, 2026, the Ohio Supreme Court, through the Ohio Board of Professional Conduct ("OBPC"), issued the Ohio Ethics Guide on Artificial Intelligence for Lawyers and Judicial Officers ("Ethics Guide"). The Ethics Guide provides nonbinding guidance on the ethical use of Artificial Intelligence ("AI") tools for lawyers and judicial officers.

Competency

The Ethics Guide states that AI can now be "correctly defined as a 'relevant technology' to the practice of law." This is important because (a) lawyers are duty bound to keep abreast of the risks and benefits of all relevant technologies, and (b) the Rules of Professional Conduct prohibit a lawyer from handling a matter in which they lack competence, a duty which extends to the technological tools used by the lawyer.

Accordingly, if a lawyer is using an AI tool, it is essential that they invest the time to develop the necessary skills and knowledge to competently use it-including being able to differentiate between the various AI tools and their legal and non-legal uses.

Confidentiality

Lawyers must safeguard client information against unauthorized access by third parties. While this obligation is not new, its application to AI represents novel challenges. All lawyers, not just outside counsel, must be careful about which AI platforms they use and what information is uploaded. The Ethics Guide specifically states that:

Attorneys who intentionally or inadvertently enter client-related information or even their own work-product into AI platforms, especially free or complimentary services, risk breaching ethical obligations related to client confidentiality.

Importantly, a client (including in-house counsel) could inadvertently waive privilege of outside counsel's work product by uploading it into a public AI tool, e.g. one that does not have adequate terms of service, privacy policies or security practices. As such, it is critical that lawyers thoroughly vet any AI tool before using it to ensure that all privileged information is protected.

Candor to the Tribunal

Candor to the tribunal is a well-established obligation for all lawyers. Ohio courts have reinforced the duty of candor by requiring disclosure of AI use in filings. Further, the Ethics Guide highlights the great divergence of local rules when it comes to AI use. For example, some courts require attorneys submit a "Disclosure of the Use of Generative AI" that specifically identifies by page, section or paragraph number which sections of a filing used AI and what platform was used. Other courts-most commonly county courts-prohibit the use of generative AI for filings entirely.

Best Practices for AI Use

As technology changes and advances, so too will the duties and obligations of the lawyers using it. AI is a tool and, like any other tool, the wielder must be competently trained on its use. Lawyers should diligently review the terms and conditions, including the privacy and security related obligations, of any AI tools they are using and make themselves aware of all local rules pertaining to AI.

The Benesch Litigation and AI Commission teams are well positioned to provide guidance on any AI-related questions and the application of the Ohio Board of Professional Conduct's Ethics Guide. Please contact us to discuss this further.