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Analyze This: AI and Human Insights, Elder Law, and Ethical Oversight

With Your Hosts

Rebecca Morgan – Robert Fleming

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The Typical Elder Law Ethics Issues

- Rule 1.1 Attorney Competence
- Rule 1.2 Client Identification
- Rule 1.4 Communication
- Rule 1.6 Confidentially
- Rules 1.7/1.9/1.18 Conflicts
- (New) Rule 1.14 Capacity (or, as the 2026 version describes it: Client with Decision-Making Limitations)
- Rules 5.1 / 5.3 Supervision of lawyers and staff

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Introduction

- Today's discussion: how elder law attorneys integrate human insight and ethical oversight into today's AI.
- What actually is AI?
- What is its best use in an elder law practice?
- So many choices, so little time

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Setting the Stage

- What is AI and how to use it?
- How are the ethics rules responding?
- Are lawyers going to be made obsolete?

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The Typical Ethical Issues + AI

- Client consent to use of AI
- Privacy issues
- Other ethical issues
  - Hallucinations
  - Errors
- Costs and billing
- Who is doing the work

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Policy and Practice Issues

- Office policies
- Public-facing information (website, etc)
- Engagement Agreements for AI use

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Prepare for Client Conversations

- AI drafted these documents for me…
- AI has some comments on your drafting…
- Since AI did the work, cut my bill…
- What could possibly go wrong? (AI & Law Practice in the News)

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Bar Association Responses

- ABA Opinion
- States
- And don't forget Rule 1.1cmt. 8: your technological competence

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How's AI Helping Us With This Session?

- Asked to find state bar ethics opinions on the use of AI.
- Came back with "Many state bars have issued ethics opinions addressing lawyers' use of generative AI. While the details vary, there is broad agreement on several core duties: competence, confidentiality, supervision, communication with clients, billing, and candor to tribunals. Here's a summary of the most significant opinions."
- Listed 9 AI determined to be most significant
- Summarized and listed commonalities with no prompting

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Asked to create flow chart for advising client with child with Special Needs



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Best Uses in Elder Law

- Conflict checks on steroids
- Prep interview questions
- Recordings and note-taking (with consent)
- Summarize meeting notes and craft to do lists
- Organize file, analyze documents and prepare timelines (confidentiality)
- Research (hallucinations, anyone?)
- Focus thinking and break writer's block
- Outline new documents

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Guardrails for Using AI

- Insurance policy
- Office Policy
- Training and monitoring everyone in the firm
- Billing records (and use as teaching tools)
- How "Big Brother" should we be?

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Did You Know…

- Model Rule 1.14 was significantly revised earlier this year.
- Focus away from diminished capacity to decision-making ability
- Highlights:
  - Still 3 sections
  - Focus on decision-making limitations that reduce the client's ability to make informed decisions or give the attorney appropriate direction.
  - Still ability to take protective action
  - Still implied authorization to disclose confidential information, within limits
  - Now twenty comments to the Rule

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New 1.14

How does this change your approach to practice? (or does it?)

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How are you using AI in your practices?

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Thank you
So Much

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