TECHNOLOGY AND ETHICS: ADAPTING TO THE POST-COVID PRACTICE OF LAW

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INTRODUCTION

- Practice of law has slowly been trending towards adoption of various technologies for practice management, billing, communications, etc.
- COVID-19 and related lockdown and travel restrictions have fast tracked adoption of technology
- This immediate need has caused some to adopt bad technology, operate technology without regards to ethics requirements, etc.

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COMPETENCY

- Tex. Disciplinary. R. Prof. Conduct 1.01, cmt. 8
- Lawyers are charged with becoming and remaining proficient and competent in the practice of law, including the benefits and risks associated with relevant technology

CONFIDENTIALITY

- Tex. Disciplinary. R. Prof. Conduct 1.05 (Confidentiality of Information)
- Lawyers must take care to protect confidential client information, which includes both privileged and unprivileged client information

CASE MANAGEMENT

- This is not the time to use "new" and "upcoming" cloud management systems
- Find a system with consistency, stability, and a history of reliability
- Backups are important

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CASE MANAGEMENT

- Professional Ethics Opinion 680 (September 2018)
  - "a lawyer may use cloud-based electronic data systems and document preparation software for client confidential information; however, lawyers should remain continually alert to the vulnerability of cloud-based vendors and systems to data breaches and whether a particular vendor or system appears to be unusually vulnerable, based on systemic failures by that vendor or system of which the lawyer should be aware"

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