

Ethical Issues When Working Remotely (or did Alexa just waive privilege?)

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ThompsonKnight

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Panel Description

- How does working remotely impact lawyers' ethical obligations to their clients?
 - Competence and diligent representation (Rule 1.01)
 - Communication (Rule 1.03)
 - Confidentiality (Rule 1.05)
 - Remote supervision of junior lawyers and non-lawyers (Rules 5.01 and 5.03)
 - Unauthorized practice of law (Rule 5.05)

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Competent and Diligent Representation

- "A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence." Texas Disciplinary Rule of Professional Conduct 1.01
- Novel legal issues due to COVID include:
 - Employment Law
 - Health Law
 - CARES Act
- Can obtain competence through study and investigation

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Competence and Technology

- Rule 1.01, comment 8: Lawyers “should strive to become and remain proficient and competent in the practice of law, *including the benefits and risks associated with relevant technology.*”
 - Video conference platforms
 - Accessing email and documents remotely
 - E-filing with courts

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Communication

- Rule 1.03:
 - (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
 - (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

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