

Communication, Consent, and AI: Timeless Professional Duties in a Changing Practice

When used responsibly, artificial intelligence tools do not replace a lawyer's judgment. Instead, they reinforce the habits that reduce risk: thoughtful communication and careful documentation confirming the lawyer's advice and clients' decisions.

BY MATTHEW M. BEIER

These days, you can't open your laptop or attend a continuing legal education program without encountering discussion about artificial intelligence (AI). At a recent in-person risk management program addressing generative AI that Wisconsin Lawyers Mutual Insurance Co. (WILMIC) provided to the Waukesha County Bar Association, the faces of many lawyer attendees looked remarkably similar to the figure in the painting *The Scream* by Edvard Munch.

Anxiety about technological change is understandable. For many lawyers, the conversation around AI initially centered on cautionary tales: hallucinated case citations (an ongoing concern¹), confidentiality concerns, and the ethical implications of delegating work to machines.

But the discussion is evolving. Now, the focus is shifting from whether lawyers should use AI to how lawyers can responsibly incorporate it into practice. As that shift continues, it is useful to remember that the core duties governing attorney conduct have not changed. The Wisconsin Rules of Professional Conduct already provide a durable framework for evaluating new technology. Two rules in particular – communication and informed consent – remain foundational.

The Enduring Importance of Communication

Wisconsin Supreme Court Rule (SCR) 20:1.4 establishes the lawyer's duty to communicate with clients. Among other things, the rule requires attorneys to keep clients reasonably informed about the status of their matters and explain issues in sufficient detail to enable the client to make informed decisions regarding the representation. Lawyers must consult with clients about

the objectives of representation and disclose circumstances requiring informed consent.

In practice, many legal malpractice claims arise not from mistakes in substantive law but from breakdowns in communication. Clients' complaints in the "You never told me" category include that they were not informed about risks, did not understand the implications of a strategy, or were surprised by a loss in a case they considered a "slam dunk." When claims are reviewed after the fact, the file frequently reveals the same problem: insufficient documentation of communication that likely occurred but was never recorded.

For years, people attending risk management programs offered by WILMIC have heard a consistent message: Document, document, document! Good communication is essential,



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but it is only half the equation. The communication must also be memorialized.

Informed Consent: More Than a Conversation

SCR 20:1.0(f) defines informed consent as a person's agreement to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks and reasonably available alternatives. The rule emphasizes that consent must be affirmative and confirmed in writing.

This requirement frequently appears in malpractice claims in which a lawyer recommended a particular action but the client chose a different path. In hindsight, the absence of clear documentation makes it difficult to prove that the client fully understood the risks involved in declining the lawyer's advice.

In my first risk management article of 2026, WILMIC's director of claims, Brian Anderson, suggested several practical habits that help protect both the client and the attorney. One of the most important is documenting client decisions, particularly when a client declines a recommended course of action. If a client instructs you not to hire an appraiser, tax professional,

investigator, or expert witness, several steps can significantly reduce risk. First, place the recommendation in writing. Second, explain how the absence of that expert may affect the case. Third, obtain the client's explicit informed consent to proceed without that step. I have often referred to this letter as the "I advised you" or "IAY" letter.

Another key area involves strengthening communication practices in areas in which grievances frequently arise. Criminal defense, for example, remained one of the leading sources of grievances reported to WILMIC in 2025. Most of those grievances were tied to communication issues rather than substantive legal errors.

Simple habits can make a substantial difference. Monthly status letters or emails keep clients informed and provide a record of ongoing communication. Written confirmation of instructions and advice ensures there is clarity about what was recommended and what was decided. Clear explanations of next steps reduce misunderstandings about timelines and responsibilities. Even documenting missed calls or unsuccessful attempts to reach a client can demonstrate diligence if questions arise later.

The practices above require only a few

minutes at the time they occur, yet they can prevent months of stress associated with responding to grievances or defending malpractice claims.

When AI Can Help

For many attorneys, the challenge is not understanding the importance of documentation but consistently implementing it during busy days filled with meetings, phone calls, deadlines, managing staff, paying bills, and so on. These are the types of tasks with which modern AI tools can offer meaningful assistance.

Imagine meeting with a client to discuss a complex matter. During the conversation, an AI assistant installed on your computer identifies relevant legal issues, flags areas for which additional clarification might be needed, and reminds the attorney to address topics that could require informed consent. After the meeting ends, the system generates a structured summary of the conversation, identifies key decisions, and produces suggested follow-up actions.

Better yet, the summary integrates directly with practice-management platforms such as Clio. The meeting notes populate the client file, a draft billing entry is created, and reminders appear prompting the attorney to confirm advice or document client decisions.

Tools with this functionality are already emerging. One example is Querious, an AI platform designed to assist attorneys during live client conversations. The system surfaces potential legal issues in real time, helps structure post-meeting documentation, and generates actionable follow-ups so that crucial details are not overlooked. As Hilary Bowman, CEO of Querious, explained, "Managing risk and maximizing productivity are not competing priorities. They are the foundation of a thriving practice. Querious ensures that attorneys have the modern tools they need to thrive in an ever-changing profession."

When used responsibly, tools like these do not replace the lawyer's judgment. Instead, they reinforce the habits that

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reduce risk: thoughtful communication and careful documentation confirming the lawyer's advice and clients' decisions.

Technology Does Not Replace Professional Judgment

Of course, adopting any new technology requires diligence. Lawyers must consider confidentiality obligations, vendor security practices, and the accuracy of AI-generated content. Responsible implementation requires thoughtful policies, training, and ongoing oversight.²

But when an attorney's practice is firmly rooted in the obligations established by the Rules of Professional Conduct, technology can become a powerful ally. AI tools can help ensure that important issues are addressed during client meetings and documentation is created promptly. This helps lawyers communicate clearly and effectively.

In other words, the same principles that have guided competent legal practice for decades – clear

communication and informed consent – can be strengthened rather than undermined by thoughtful use of AI.

When Problems Arise

Even with careful practice management, difficult situations can arise. When they do, early communication with your professional liability carrier can be invaluable. Facts or circumstances that might give rise to a claim should be discussed promptly so that guidance can be provided at an early stage.

At WILMIC, policyholders frequently consult with director of claims Brian Anderson when questions arise. Many have described him as a “port in a storm” when navigating challenging circumstances.³ Early consultation often helps attorneys resolve issues before they escalate into more serious problems.

Looking Forward

Artificial intelligence will continue to reshape aspects of legal practice. Some developments undoubtedly will create new ethical questions. Others will provide tools that improve efficiency, accuracy, and client service.

What will not change, however, are the fundamental duties lawyers owe to their clients. Clear communication, informed consent, and careful documentation remain the cornerstones of effective representation. If AI can help reinforce those habits, it may ultimately reduce risk while allowing attorneys to focus more time on the substantive work of serving their clients.

The good news is that safe and effective tools already exist to help attorneys do exactly that. **WL**

ENDNOTES

¹Stacie Rosenzweig, *We Should All Know Better By Now, But We Don't*, Ethicking (Jan. 5, 2026), <https://www.ethicking.com/blog/we-should-all-know-better-by-now-but-we-dont>.

²See ABA Task Force on Law & Artificial Intelligence, *Addressing the Legal Challenges of AI: Year 2 Report on the Impact of AI on the Practice of Law* (Dec. 2025), <https://www.americanbar.org/content/dam/aba/administrative/center-for-innovation/ai-task-force/2025-ai-task-force-year2-report.pdf>. (ABA membership might be required to read this article.)

³AI can be useful for more than serious practice-management tasks. Brian Anderson and I have been presenting risk-management programs together for years, and we often joke with each other at each other's expense. When I first heard him described as a “port in a storm,” I used AI to generate a headshot of him in a seaside storm with a lighthouse on his head. If you are reading this and would like to see it, send me an email – I will ask him nicely for permission to share it. **WL**

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