

Protecting Privilege in the Age of AI

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Sarah Sawyer and Russell Berger, at Offit Kurman, discuss how clients' growing use of AI tools, can jeopardize attorney-client privilege and confidentiality. They warn that entering sensitive facts into open AI platforms may be treated like sharing them publicly under certain terms of service. Recent cases show that AI-generated materials created before hiring counsel may not become privileged by later giving them to an attorney. They recommend not to run lawsuits or legal defenses through tools like ChatGPT due to privilege risks and imperfect accuracy. Clients should start by consulting their attorney and, if AI is used, do so under attorney supervision.