



# Ethical Use of Artificial Intelligence (AI) by Attorneys

Presented by: Frank Meyers, JD

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# *About* FSMB

At the Federation of State Medical Boards (FSMB), we proudly support state medical boards within the United States, its territories, and the District of Columbia. We serve our member boards as they fulfill their mandate of protecting the public's health, safety, and welfare through proper medical regulation, licensing, and disciplining of physicians, physician assistants/associates (PAs), and other healthcare professionals.



# *About* FSMB

FSMB's top priority is supporting state medical boards in their critical mission of public protection. Our support is vast and diverse and includes:

- Advocacy, Policy, and Communications
- Technology and Information Services
- Educational Programming
- Assessment Services
- Licensing and Disciplinary Data

# *What are the* Learning Objectives?

 Defining AI

 ABA Model Rules

 Uses of AI

 The Future of AI Regulation



# Defining AI

# *What is* AI?

- AI is an umbrella term for any form of technology that can perform “intelligent” tasks.
- Focus of this presentation is on Generative Artificial Intelligence (GAI).





Visual Perception



Speech Recognition



Decision Making



Legal Industry





# Uses of AI

## Legal Research and Analysis

- AI tools are revolutionizing legal research by enabling faster and more comprehensive access to case laws, statutes, and legal precedents.
- Advanced algorithms can sift through vast databases to find relevant case law, interpret statutes, and suggest applicable legal texts, thereby reducing the time lawyers spend on these tasks.

The screenshot displays a chat interface for a legal AI tool. At the top, the search query is "Storm liability" and "Manufacturer Liability in Supply Chain Disruption". The chat is currently on the "Chat" tab, with "Results" also visible. A user asks, "Helpful answer?" with thumbs up and down icons. The AI, identified as "Ryan Groff" at 2:02 PM, responds with "3 files added" and lists three PDF documents: "479\_N.W.2d\_724.pdf", "State v Lund.pdf", and "505\_N.W.2d\_638.pdf". A "CoCounsel" bot at 2:02 PM asks for more details about the files. The user then asks, "Please read each of these cases to answer this question: In a situation where a motorist caused an accident after drinking, with a BAC that was on the line of being legal or illegal, how would the judge in this document handle this situation?". The "CoCounsel" bot at 2:02 PM responds, "Reviewing these files now..." with a "Review Documents" button. A confirmation message states, "Your results are ready!". Below this, it shows "FILES (3)" and lists the same three PDF documents. A "Give me examples" button is at the bottom.

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- ✓ *Draft legal documents faster*
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- ✓ *Reduce spending on outside counsel*



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**Ask Practical Law AI** New [How Ask Practical Law AI works](#) [Tips for best results](#) + Ask a new question

what are the key issues to focus on when drafting a force majeure clause?

**PL** When drafting a force majeure clause, key issues to focus on include:

1. The type of transaction and the obligations in the contract that may be affected by force majeure events [1, 2].
2. The types of force majeure events that are most likely to affect performance. You should consider whether to include an unrestricted list of force majeure events or a finite list. You may also want to include catch-all language and explicit exclusions [1, 2, 3].
3. Whether the force majeure clause should apply to one party (unilaterally) or to both parties (mutually) [1, 2].
4. The potential consequences if the parties do not include a force majeure clause [1].
5. Force majeure notice procedures and the impacted party's obligation to mitigate the effects of the force majeure event [2, 4].
6. The interplay of the force majeure clause with other contractual provisions [1].
7. The negotiating leverage of the parties [1].

Be aware of key issues in interpreting a force majeure clause. These include whether causation must be established, whether the contract excludes foreseeable events, and whether there is a duty to mitigate [4]. Consider the consequences of a force majeure event, such as temporary relief from performance or the right of termination if the event continues for an extended period [4]. Explicitly exclude any obligations that should not be excused by a force majeure event, such as payment obligations, providing financial assurances, and providing defense and indemnification [3].

Was this response helpful?  Yes  No


**1. Force Majeure Clauses: Key Issues in Selected Commercial Transactions**  
Practice notes - Maintained - National/Federal

Ask a follow-up question about this response + Ask a new question

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## What can CoCounsel do?



### Prepare for a Deposition

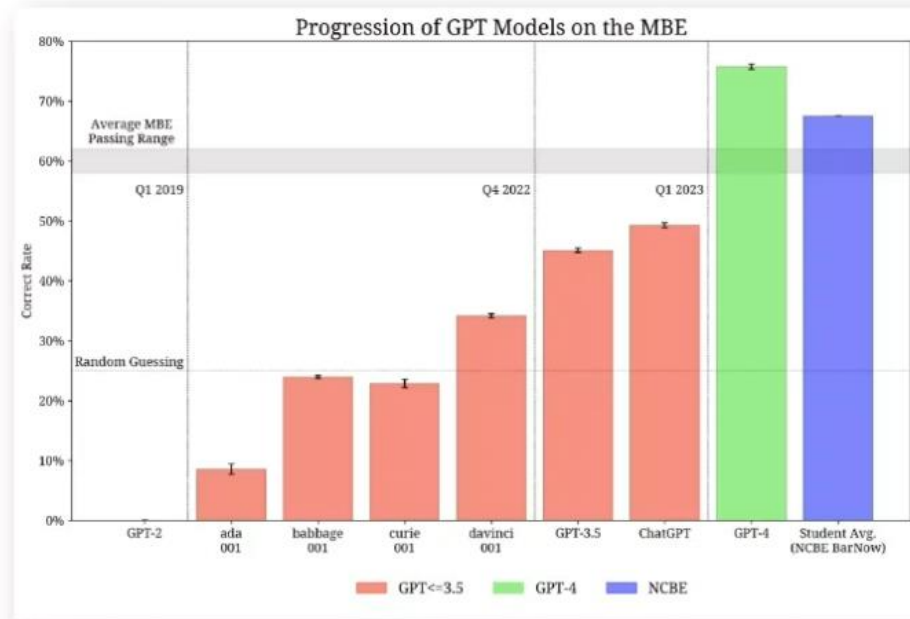
Get a thorough deposition outline in no time. Describe the deponent and what's at issue in the case, and CoCounsel identifies multiple highly relevant topics to address and drafts questions for each.

◀ ▶

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# CoCounsel Core is GPT-4

The latest, most-advanced large language model (LLM) from OpenAI



Source: Katz, Daniel Martin and Bommarito, Michael James and Gao, Shang and Arredondo, Pablo, GPT-4 Passes the Bar Exam (March 15, 2023). Available at SSRN: <https://ssrn.com/abstract=4389233> or <http://dx.doi.org/10.2139/ssrn.4389233>

## CoCounsel Core is an **AI legal assistant**

We are still  
overseeing the  
assistance we  
receive



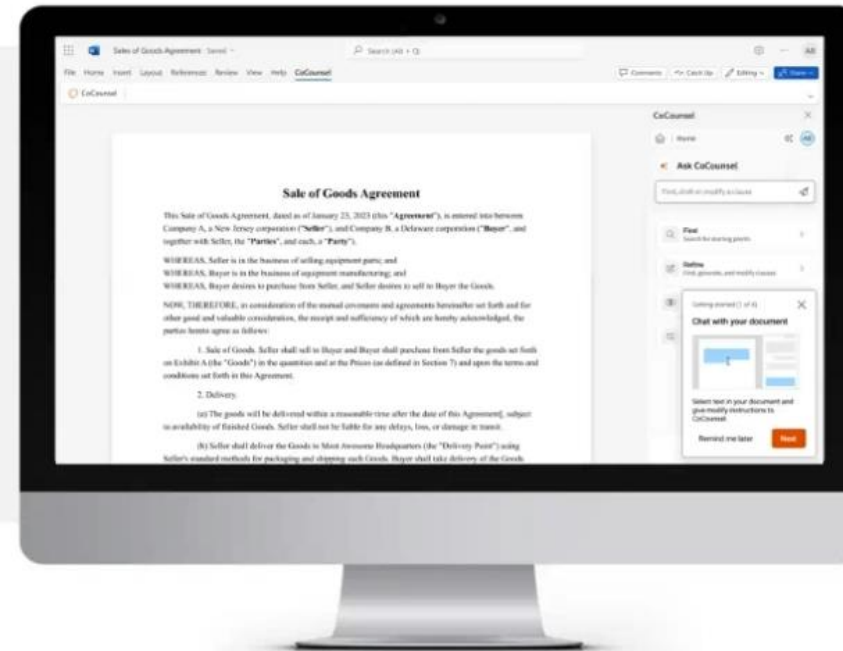
Legal assistants must  
**always** show their work



Lawyers must **always** use  
independent judgement to  
verify final work product

## CoCounsel Drafting

- **Meet users where they work**
- End-to-end drafting skills  
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- Designed for multiple use cases  
**Transactional | Litigation**
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- **Powered with CoCounsel AI Assistant**

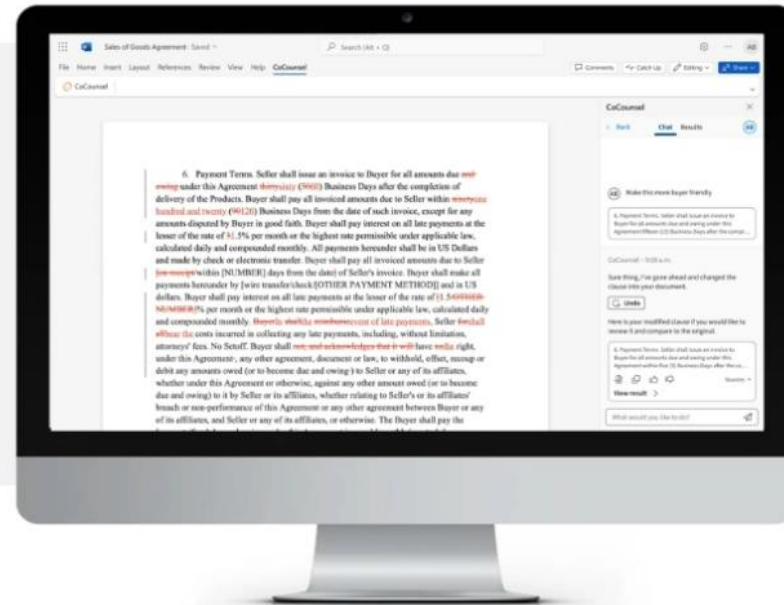




## Draft and modify with GenAI grounded in TR content

### Accelerate drafting and review

- Generative AI-assisted **drafting, modification and summarization capabilities**
- Only our Generative AI leverages trusted Practical Law and Westlaw content and expertise; using Retrieval Augmented Generation (RAG) to ensure LLMs are grounded in reality



## Document Review and Management

- AI systems can highlight important information, flag inconsistencies, or suggest edits to ensure that documents are compliant with legal standards.
- This not only speeds up the process but also enhances accuracy by minimizing human error.

The screenshot displays a chat window titled "Storm liability" and "Manufacturer Liability in Supply Chain Disruption". It features two tabs: "Chat" and "Results". A message from "CoCounsel" at 2:03 PM states "Summarizing the files now..." with a "Summarize" button. Below this, a confirmation message says "Your results are ready!". A section titled "FILES (3)" lists three PDF documents: "Medical Record 1a (1)...", "Medical Record 4a.pdf", and "Medical Record 14.pdf". Under "SUMMARY TYPE", the option "Detailed" is selected. A "View results" button is located at the bottom right of this section. A "Helpful answer?" prompt with thumbs up and down icons is visible. A user named "Ryan Groff" at 2:03 PM asks, "While you're working, could you also give me a timeline of these medical records?". A final message from "CoCounsel" at 2:03 PM responds, "I am setting up to generate a timeline based on the medical records you've provided.", with a "Timeline" button.

Summarize | I understand you want to summarize these medical records.

**Detailed Summary for 3 documents**  
Created: May 9, 2024

^ Medical Record 1a (1).pdf ✓

[View Pages 1-3 →](#)

- The document is a medical record for a patient at Optimum Health Clinic in Allegan, MI.
- The patient's insurance information is provided, including the insurance company (BCBS of Michigan PPO), insurance ID, and group number.
- The patient's problem list includes a number of conditions, such as anxiety, hypertension, chronic pain, and emphysema.
- The patient's medication list includes medications such as Effexor XR, Levaquin, and Neosporin.
- The document also contains notes from various medical encounters, including symptoms, diagnoses, and prescriptions.
- Dr. Walid Nader is mentioned as the physician providing care.

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[View Pages 4-7 →](#)

- The document begins with a summary of the patient's physical examination, noting vital signs, height, weight, and BMI.
- The physician notes that the patient is in generally good health, with no major concerns in the lungs, heart, chest wall, abdomen, or extremities.
- The physician diagnoses the patient with several conditions, including osteoarthritis, hypertension, anxiety, and chronic pain.
- The physician prescribes Vicodin for pain relief, and advises the patient of potential side effects.
- The document then details a subsequent encounter, in which the patient requests medication refills and reports that the Vicodin is not adequately managing their pain.
- The physician again notes that the patient is in generally good health, and prescribes a higher dosage of Vicodin.
- The document ends with a record of the patient's lab history and a request for authorization for Subsys, a sublingual spray for pain relief.

## Client Interaction and Communication Tools

- AI-driven chatbots and virtual assistants can handle preliminary client inquiries, schedule appointments, and even provide basic legal advice.
- This not only improves client service by providing immediate responses to client queries but also frees up legal professionals to handle more complex issues.

The screenshot shows the LawDroid website with a dark theme. The header includes the LawDroid logo and navigation links for PRODUCTS, PRICING, RESOURCES & EVENTS, TRY FOR FREE, and LOGIN. The main content area is titled "Key benefits for your firm" and features six benefit cards arranged in a 2x3 grid. Each card includes an icon, a title, and a brief description. A "TRY FOR FREE" button is located at the bottom center of the page.

**LAWDROID** PRODUCTS ▾ PRICING RESOURCES & EVENTS ▾ TRY FOR FREE LOGIN

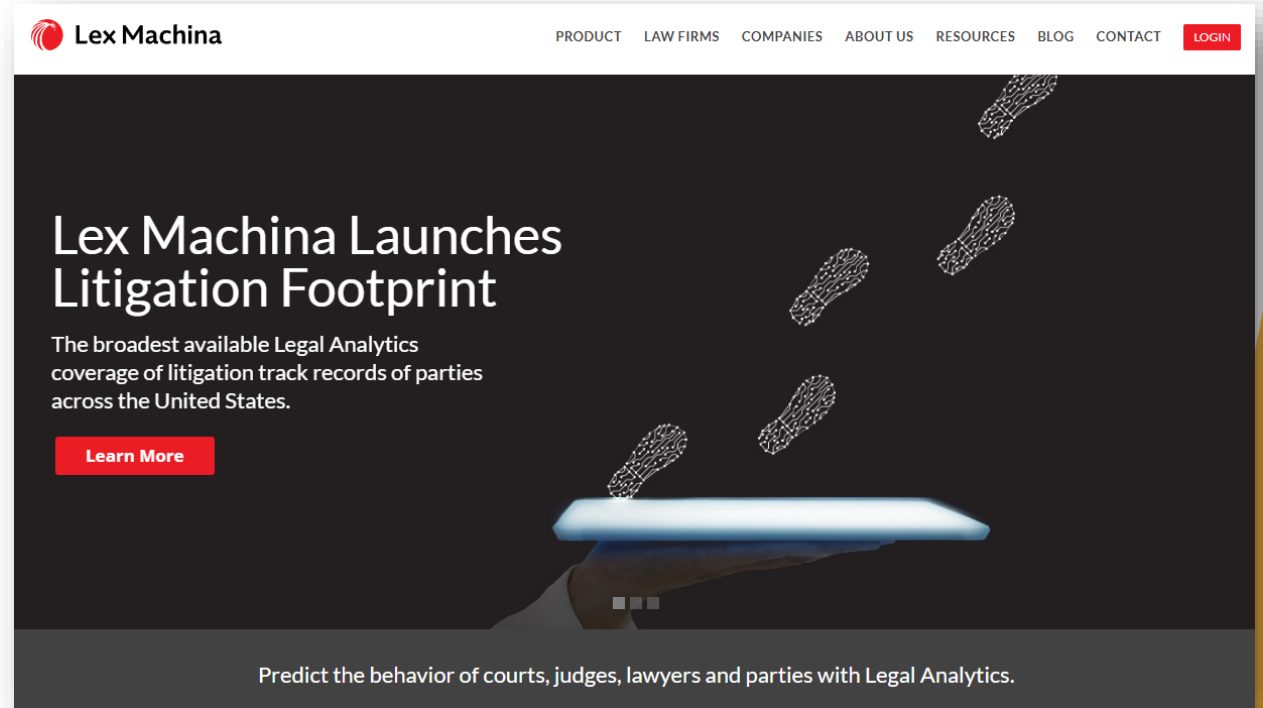
### Key benefits for your firm

- Intake New Clients**  
Engage potential clients with delightful chatbots, using video and responsive conversation, build trust and capture their information to automatically create new leads and contacts in your favorite case management system.
- Data-Driven Decisions**  
Know your client's needs based on data. LawDroid's rich analytics gives you an in depth understanding of your client's every choice and preference so you can make data-driven decisions.
- Automate Documents**  
Convert your Word documents into dynamic templates that use conditional logic to intelligently create robust documents using information gathered from your clients.
- Human in the Loop**  
Automation is great, but automation plus the human touch is best. LawDroid empowers you to jump in and takeover automated conversations with human agent takeover.
- Build Scalable Tools**  
Scale your legal expertise and charge for services, such as self-serve legal documents, issue spotting, and legal guidance, while you sleep. Sell on your website or through LawDroid.
- Natural Language Answers**  
Empower your clients to get immediate answers to their legal questions. Use natural language processing to answer frequently asked questions automatically so you don't have to.

TRY FOR FREE

## Predictive Analytics

- Predictive analytics in law uses data from previous legal cases to forecast outcomes in similar cases.
- This capability supports lawyers in assessing the risks and strengths of a case before deciding on the best course of action.



**Lex Machina** PRODUCT LAW FIRMS COMPANIES ABOUT US RESOURCES BLOG CONTACT LOGIN

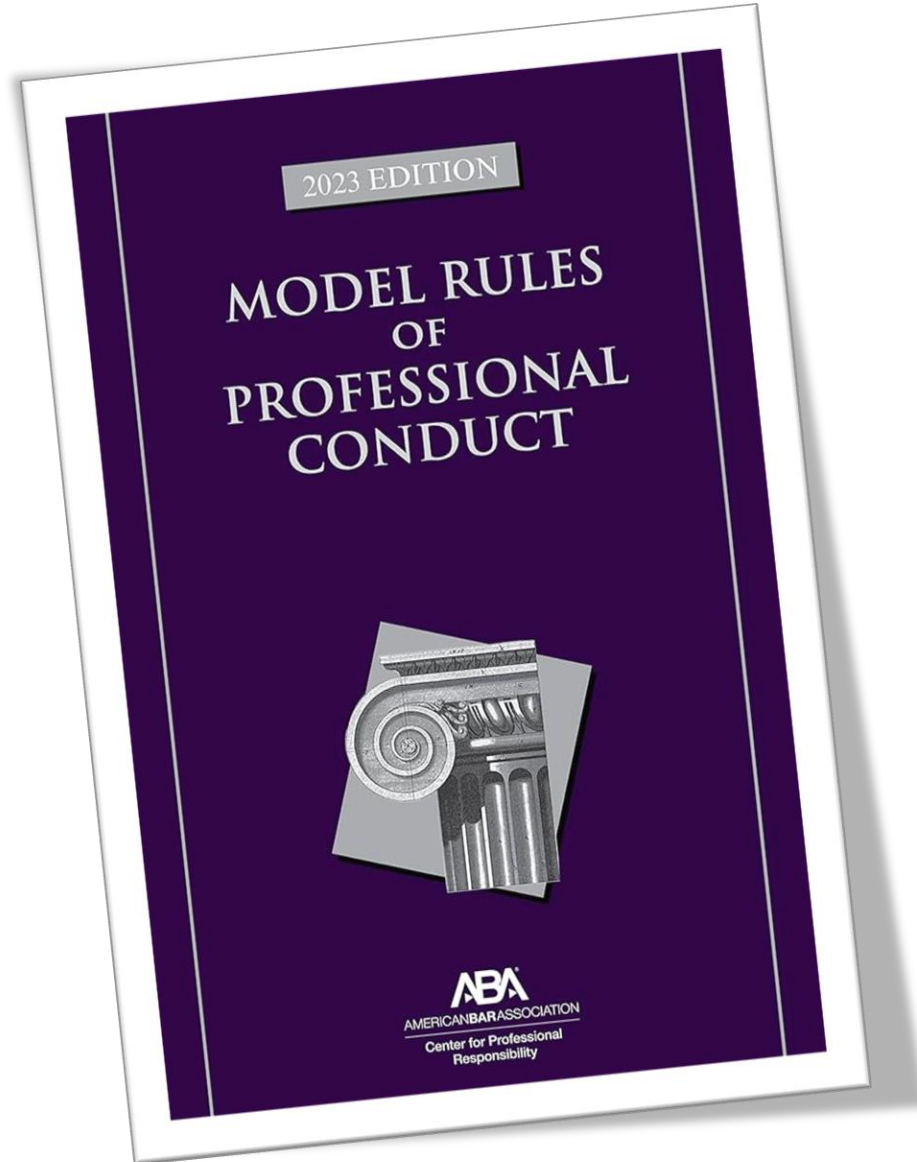
# Lex Machina Launches Litigation Footprint

The broadest available Legal Analytics coverage of litigation track records of parties across the United States.

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# ABA Model Rules





# AMERICAN BAR ASSOCIATION

STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY

July 29, 2024

## Formal Opinion 512

### Generative Artificial Intelligence Tools

*To ensure clients are protected, lawyers using generative artificial intelligence tools must fully consider their applicable ethical obligations, including their duties to provide competent legal representation, to protect client information, to communicate with clients, to supervise their employees and agents, to advance only meritorious claims and contentions, to ensure candor toward the tribunal, and to charge reasonable fees.*

#### I. Introduction

Many lawyers use artificial intelligence (AI) based technologies in their practices to improve the efficiency and quality of legal services to clients.<sup>1</sup> A well-known use is electronic discovery in litigation, in which lawyers use technology-assisted review to categorize vast quantities of documents as responsive or non-responsive and to segregate privileged documents. Another common use is contract analytics, which lawyers use to conduct due diligence in connection with mergers and acquisitions and large corporate transactions. In the realm of analytics, AI also can help lawyers predict how judges might rule on a legal question based on data about the judge's rulings; discover the summary judgment grant rate for every federal district judge; or evaluate how parties and lawyers may behave in current litigation based on their past conduct in similar litigation. And for basic legal research, AI may enhance lawyers' search results.

This opinion discusses a subset of AI technology that has more recently drawn the attention of the legal profession and the world at large – generative AI (GAI), which can create various types of new content, including text, images, audio, video, and software code in response to a user's prompts and questions.<sup>2</sup> GAI tools that produce new text are prediction tools that generate a statistically probable output when prompted. To accomplish this, these tools analyze large amounts of digital text culled from the internet or proprietary data sources. Some GAI tools are described as "self-learning," meaning they will learn from themselves as they cull more data. GAI tools may assist lawyers in tasks such as legal research, contract review, due diligence, document review, regulatory compliance, and drafting letters, contracts, briefs, and other legal documents.

<sup>1</sup> There is no single definition of artificial intelligence. At its essence, AI involves computer technology, software, and systems that perform tasks traditionally requiring human intelligence. The ability of a computer or computer-controlled robot to perform tasks commonly associated with intelligent beings is one definition. The term is frequently applied to the project of developing systems that appear to employ or replicate intellectual processes characteristic of humans, such as the ability to reason, discover meaning, generalize, or learn from past experience. BRITANNICA, <https://www.britannica.com/technology/artificial-intelligence> (last visited July 12, 2024).  
<sup>2</sup> George Lawton, *What is Generative AI? Everything You Need to Know*, TECHTARGET (July 12, 2024), <https://www.techtargget.com/searchenterprisecai/definition/generative-AI>.





### Rule 1.1 (Competence)

Rule 1.1 obligates lawyers to provide competent representation to their clients. Competent representation requires they exercise their skill, thoroughness and reasonable necessary diligence. In addition, the model rules should understand “the technology associated” with the technology to deliver legal services to clients.

### *Here's What Happens When Your Lawyer Uses ChatGPT*

A lawyer representing a man who sued an airline relied on artificial intelligence to help prepare a court filing. It did not go well.

**“I heard about this new site, which I falsely assumed was, like, a super search engine.”**

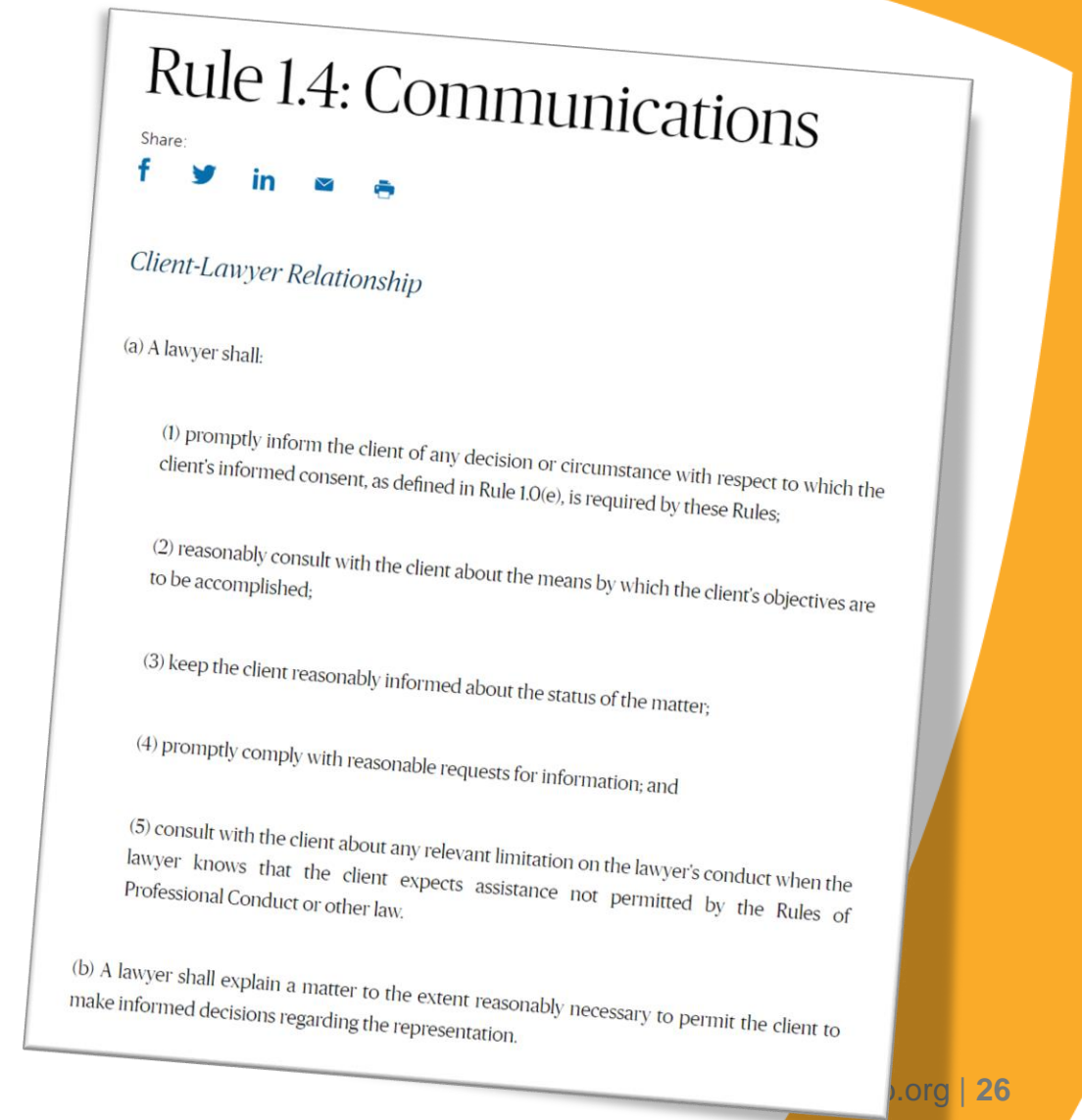
As an Avianca flight approached Kennedy International Airport in New York, a serving cart collision began a legal saga, prompting the question: Is artificial intelligence so smart? Nicolas Economou/NurPhoto, via Getty Images

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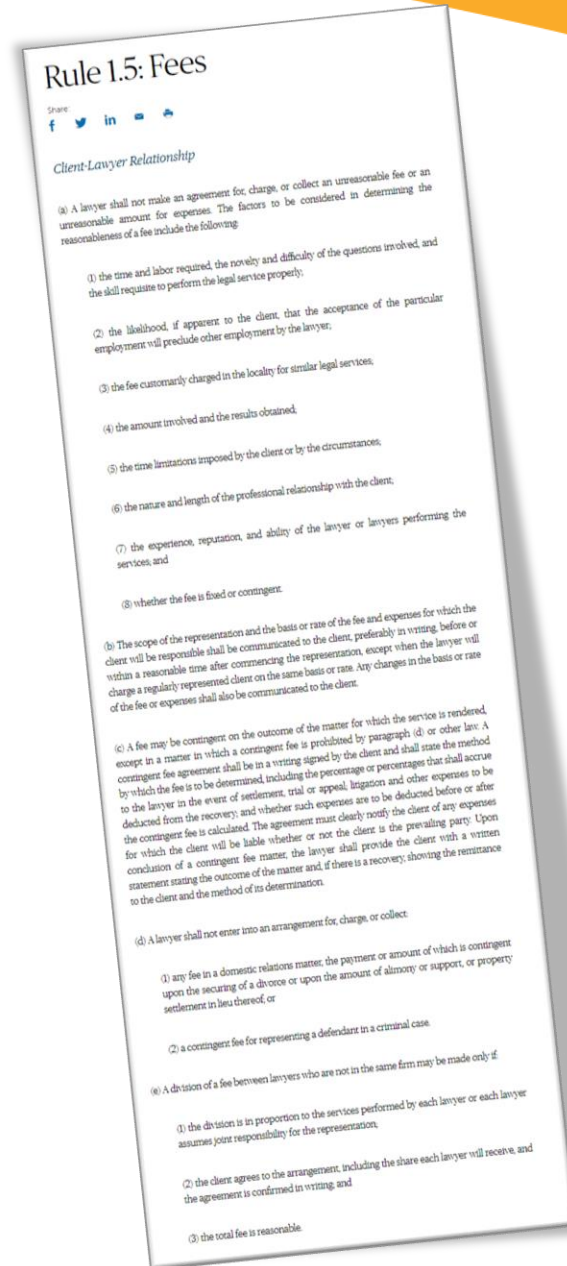
## Rule 1.4 (Communication)

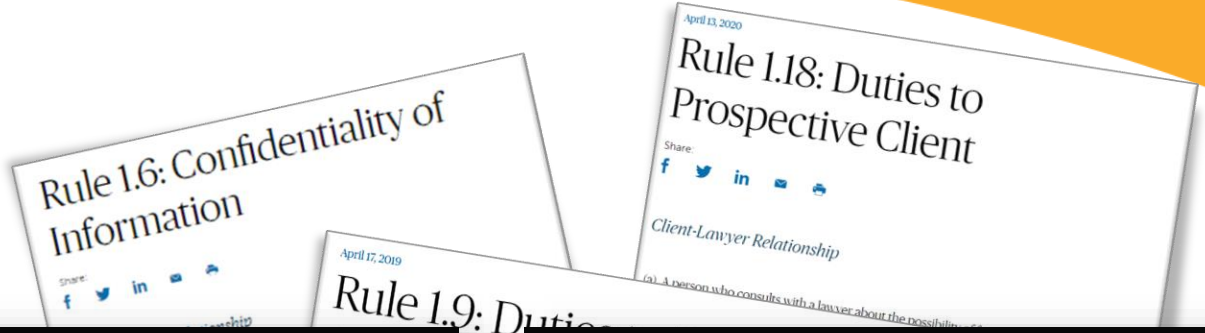
This model rule addresses lawyers' duty to communicate with their clients and builds on lawyers' legal obligations as fiduciaries, which include "the duty of an attorney to advise the client promptly whenever he has any information to give which it is important the client should receive." Of particular relevance to GAI, Model Rule 1.4(a)(2) states that a lawyer shall "reasonably consult" with the client about the means by which the client's objectives are to be accomplished.



## Rule 1.5 (Fees)

This rule requires a lawyer's fees and expenses to be reasonable and includes criteria for evaluating whether a fee or expense is reasonable. The formal opinion notes that if a lawyer uses a GAI tool to draft a pleading and expends 15 minutes to input the relevant information into the program, the lawyer may charge for that time as well as for the time necessary to review the resulting draft for accuracy and completeness. But, in most circumstances, the lawyer cannot charge a client for learning how to work a GAI tool.





Updated: November 14, 2023

# Terms of use

**Effective:** January 31, 2024 (previous version)

Thank you for using OpenAI!

These Terms of Use apply to your use of ChatGPT, DALL-E, and OpenAI's other services for individuals, along with any associated software applications and websites (all together, "Services"). These Terms form an agreement between you and OpenAI, L.L.C., a Delaware company, and they include our Service Terms and important provisions for resolving disputes through arbitration. By using our Services, you agree to these Terms.

If you reside in the European Economic Area, Switzerland, or the UK, your use of the Services is governed by these terms.

Our Business Terms govern use of ChatGPT Enterprise, our APIs, and our other services for businesses and developers.

Our Privacy Policy explains how we collect and use personal information. Although it does not form part of these Terms, it is an important document that you should read.

Updated: November 14, 2023

# Business terms

(Previous versions)

These OpenAI Business Terms govern use of our APIs, ChatGPT Enterprise, ChatGPT Team, and other services for businesses and developers. Use of our services for individuals, such as ChatGPT or DALL-E, are governed by the Terms of use.

Thank you for choosing OpenAI!

These Business Terms are an agreement between OpenAI, L.L.C. and you ("Customer") that governs your use of our Services (as defined below). If you reside within a European Economic Area country or Switzerland, your agreement is with OpenAI Ireland Ltd. By signing up to use the Services, you agree to be bound by these Business Terms. You represent to us that you are lawfully able to enter into contracts and, if you are entering into these Business Terms for an entity, that you have legal authority to bind that entity. These Business Terms also refer to and incorporate the Service Terms, Sharing & Publication Policy, Usage Policies, and any other guidelines or policies we may provide in writing (the "OpenAI Policies") and any ordering document signed by you and OpenAI or OpenAI webpage that you use to purchase the Services (an "Order Form") (collectively, the "Agreement").

Updated: November 14, 2023

# Privacy policy

**Effective:** January 31, 2024

We've updated our Privacy Policy below. These updates do not apply to individuals located in the European Economic Area, UK, and Switzerland. If you reside in those areas, this version of our Privacy Policy applies to you.

We at OpenAI OpCo, LLC (together with our affiliates, "OpenAI", "we", "our" or "us") respect your privacy and are strongly committed to keeping secure any information we obtain from you or about you. This Privacy Policy describes our practices with respect to Personal Information we collect from or about you when you use our website, applications, and services (collectively, "Services"). This Privacy Policy does not apply to content that we process on behalf of customers of our business offerings, such as our API. Our use of that data is governed by our customer agreements covering access to and use of those offerings.

For information about how we collect and use training information to develop our language models that power ChatGPT and other Services, and your choices with respect to that information, please see this help center article.

**Rules 3.1, 3.3, & Tribunal**

These rules relate prohibits lawyers f requires candor to conduct involving o misrepresentation. areas if we're not vig



## Chatbot Failure Was “Negligent Misrepresentation”

The Tribunal determined the claim against Air Canada constituted “negligent misrepresentation.”

“Air Canada argues it cannot be held liable for information provided by one of its agents, servants, or representatives – including a chatbot. It does not explain why it believes that is the case. In effect, Air Canada suggests the chatbot is a separate legal entity that is responsible for its own actions. This is a remarkable submission. While a chatbot has an interactive component, it is still just a part of Air Canada’s website. It should be obvious to Air Canada that it is responsible for all the information on its website. It makes no difference whether the information comes from a static page or a chatbot,” Christopher C. Rivers, Civil Resolution Tribunal Member, wrote in his decision on the case.

Rivers found Air Canada “did not take reasonable care to ensure its chatbot was accurate.” The airline failed to explain to the Tribunal “why the webpage titled ‘Bereavement travel’ was inherently more trustworthy than its chatbot. It also does not explain why customers should have to double-check information found in one part of its website on another part of its website.”

### Rules 5.1 & 5.3: Supervisory

Finally, Rules 5.1 and 5.2 outline the responsibilities of lawyers in supervisory roles. With these lawyers must establish regarding the firm's use of technology that all lawyers and staff understand both the ethical and practical

Responsibilities  
lawyer

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which the other lawyer practices, or has direct supervisory responsibility over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.



# Future of AI Regulation

## Two Competing Visions of the Future

Well at least as far as AI and law go, anyway



SAM HARDEN  
NOV 21, 2023





OCTOBER 30, 2023

# FACT SHEET: President Biden Issues Executive Order on Safe, Secure, and Trustworthy Artificial Intelligence

 ▶ BRIEFING ROOM ▶ STATEMENTS AND RELEASES

Today, President Biden is issuing a landmark Executive Order to ensure that America leads the way in seizing the promise and managing the risks of artificial intelligence (AI). The Executive Order establishes new standards for AI safety and security, protects Americans' privacy, advances equity and civil rights, stands up for consumers and workers, promotes innovation and competition, advances American leadership around the world, and more.

As part of the Biden-Harris Administration's comprehensive strategy for responsible innovation, the Executive Order builds on previous actions the President has taken, including work that led to voluntary commitments from 15 leading companies to drive safe, secure, and trustworthy development of AI.

## Schumer Lay A.I., Without

The Senate majority course in a technology to build bipartisan su

 Give this article 



"In many ways we're starting challenge," Senator Chuck S

## ulation on gence

ated by the AI Act, the world's t will protect you.



© AI image/Imrefless Visions/Adobe Stock



Enrolled

S.B. 149

**ARTIFICIAL INTELLIGENCE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kirk A. Cullimore**

House Sponsor: Jefferson Moss

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**LONG TITLE**

**General Description:**

This bill creates the Artificial Intelligence Policy Act.

**Highlighted Provisions:**

This Bill:

- defines terms;
- establishes liability for use of artificial intelligence (AI) that violates consumer protection laws if not properly disclosed;
- creates the Office of Artificial Intelligence Policy (office) and a regulatory AI analysis program;
- enables temporary mitigation of regulatory impacts during AI pilot testing;
- establishes the Artificial Intelligence Learning Laboratory Program to assess technologies, risks, and policy;
- requires disclosure when an individual interacts with AI in a regulated occupation; and
- grants the office rulemaking authority over AI programs and regulatory exemptions.



# An Act

SENATE BILL 24-205

BY SENATOR(S) Rodriguez, Cutter, Michaelson Jenet, Priola, Winter F., Fenberg;  
also REPRESENTATIVE(S) Titone and Rutinel, Duran.

CONCERNING CONSUMER PROTECTIONS IN INTERACTIONS WITH ARTIFICIAL INTELLIGENCE SYSTEMS.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** part 17 to article 1 of title 6 as follows:

## PART 17 ARTIFICIAL INTELLIGENCE

**6-1-1701. Definitions.** AS USED IN THIS PART 17, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "ALGORITHMIC DISCRIMINATION" MEANS ANY CONDITION IN WHICH THE USE OF AN ARTIFICIAL INTELLIGENCE SYSTEM RESULTS IN AN UNLAWFUL DIFFERENTIAL TREATMENT OR IMPACT THAT DISFAVORS AN INDIVIDUAL OR GROUP OF INDIVIDUALS ON THE BASIS OF THEIR ACTUAL OR

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

ARTIFICIAL INTELLIGENCE / TECH / LAW

# California governor vetoes major AI safety bill

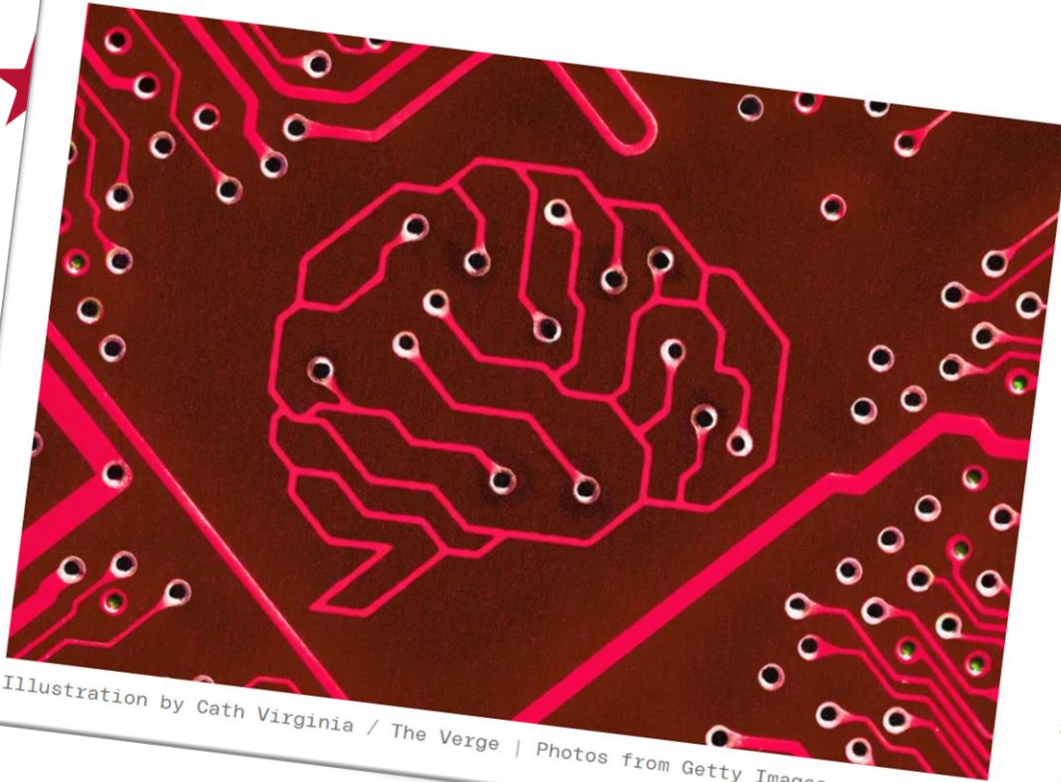


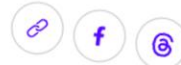
Illustration by Cath Virginia / The Verge | Photos from Getty Images

California Bill to Regulate A.I. Silicon Valley

SB 1047 would have required the state's biggest AI companies to implement security measures designed to protect the public from harm.

By [Emma Roth](#) and [Wes Davis](#)

Sep 29, 2024, 4:37 PM EDT



78 Comments (78 New)



FEDERATION OF  
STATE MEDICAL BOARDS

THE STATE  
STANDIN  
PROFESSIONAL RE

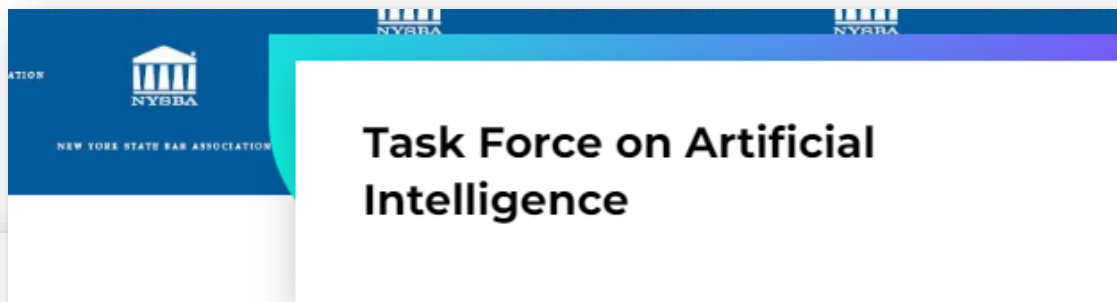
PRACTICAL GL  
GENERATIVE ARTIFICIAL IN

EXECU

Generative AI is a tool that has wide-rangin administrative functions of the legal practi practice areas. Like any technology, gener lawyer's professional responsibility obligat Professional Conduct and the State Bar Act of the technology used in connection with will depend on a host of factors, including and the tools themselves, ranging from fre formats.

Generative AI use presents unique challen competing AI models and products, and, e there is a lack of clarity as to how it works, encouraging greater reliance and trust on responses and its ability to do so in a man human responses. A lawyer should consid providing legal services.

The following Practical Guidance is based c lawyers and demonstrates how to behav guidance is intended to address issues and that use generative AI as a component of a including more established applications of principles rather than as "best practices."



# Task Force on Artificial Intelligence

## Mission Statement

The Task Force on Artificial Intelligence will examine the legal, social, and ethical impact of artificial intelligence (AI) on the legal profession. The Task Force will review AI-based software, generative AI technology, and other machine learning tools that may enhance the profession and that pose risks for individual attorneys dealing with new, unfamiliar technology, and courts concerned about the integrity of the judicial process. Also, the Task Force will explore the positive and negative implications of AI use by the legal community and the general public, including effects on access to justice, legal regulations, and privacy preservation. As it engages in its work, the Task Force will consult and ensure alignment of approaches, where appropriate, with other entities within the Association, including but not limited to the Committee on Technology and the Legal Profession, the Task Force on Emerging Digital Finance and Currency, the Working Group on Facial Recognition Technology and Access to Legal Representation, and relevant sections. Lastly, the Task Force will develop policies for bar association adoption and suggest legislation to govern effective and responsible AI use.

## Articles and Press Releases

"New York State Bar Association Task Force To Address Emerging Policy Challenges Related to Artificial Intelligence" July 17, 2023 - <https://nysba.org/new-york-state-bar-association-task-force-to-address-emerging-policy-challenges-related-to-artificial-intelligence/>

ICS OPINION  
14-1  
2024

are not binding.

ence ("AI") in the practice of law but must ide accurate and competent services, avoid le restrictions on lawyer advertising. t information is protected when using on data retention, data sharing, and self-product and professional judgment and must if generative AI is consistent with the es not permit a lawyer to engage in nerative AI chatbots that communicate with on lawyer advertising and must include a m and not a lawyer or employee of the law tain technological competence and educate h technology.

(e); 4-1.5(f)(2); 4-1.5(h); 4-1.6; 4-1.6 8 Comment; 4-3.1; 4-3.3; 4-4.1; 4-4.4(b); 4-7.13(b)(5); 4-5.3(a) 6-2; 07-2; 10-2; 12-3; ABA Comm. on al Op. 498 (2021); ABA Comm. on Ethics 93-379 (1993); Iowa Ethics Opinion 11-01; 42 L. 4114965, at 17 (S.D.N.Y. June 22, 2023); . 2d 85, 86 (Fla. 2d DCA 1992); *The* 1, 899 (Fla. 2002); *Att'y Grievance Comm'n* Md. 2006)

ected the Board Review Committee on yers' use of generative artificial intelligence 2 prompted wide-ranging debates regarding While it is impossible to determine the n, this opinion is intended to provide the ethical implications of these new

at compile data "to generate statistically erative AI? (April 20, 2023). (last visited 11/09/2023). Generative AI can briefs based on written prompts. Often, atasets utilized by generative AI large making it virtually impossible to determine

***Navigating the Responsible and Ethical Incorporation of  
Artificial Intelligence into Clinical Practice***

*Adopted by FSMB House of Delegates, April 2024*

**EXECUTIVE SUMMARY**

Artificial Intelligence (AI) holds tremendous potential to aid healthcare providers in diagnosis, treatment selection, clinical documentation, and other tasks to improve quality, access, and efficiency. However, these technologies introduce risks if deployed without proper “guardrails” and understanding which may impact considerations in clinical practice as well as regulatory processes of state medical boards. By taking a proactive and standardized governance approach anchored in ethical principles, state medical boards can promote safe and effective integration of AI, in its various forms, while prioritizing patient wellbeing.

This report summarizes expert opinion and proceedings to develop guidance from the FSMB Ethics and Professionalism Committee to aid physicians and state medical boards in navigating the responsible and ethical incorporation of AI centered on (1) education, (2) emphasizing human accountability, (3) ensuring informed consent and data privacy, (4) proactively addressing responsibility and liability concerns, (5) collaborating with experts, and (6) anchoring AI governance in ethical principles.

Clinical systems and processes making use of AI must be continually monitored and refined. This should not occur in a vacuum but should be the focus of collaborative efforts among physicians, health systems, data scientists, and regulatory agencies, *including state medical boards*. By thoughtfully addressing the opportunities and challenges posed by AI in healthcare, state medical boards can promote the safe, effective, and ethical use of AI as a tool to enhance, but generally not replace, human judgment and accountability in medical practice. In fulfilling their missions to ensure that patients benefit from and are not harmed by applications of AI in their care, it is essential that state medical boards avoid over-regulation and regulatory overreach by attempting to regulate that which is not in their purview. With focused efforts on the current and future state of the use of AI by licensees, state medical boards may sustain regulatory efficiency, achieve consistency across jurisdictions in the regulation of AI in clinical practice, help secure the benefits of AI, and proactively safeguard patients while upholding professional standards.

 Education is critical.

 Physicians remain accountable.

 Informed consent and data privacy are paramount.

 Proactively address bias and access.

 Anchor AI governance in ethics.

 Collaboration is key.

# ? Questions & Answers

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