

## Committee on Disciplinary Rules and Referenda

### Agenda

**Date and Time: Wednesday, August 7, 2024 – 10:00 a.m. CDT by Teleconference**

**Join by Meeting Link: <https://texasbar.zoom.us/j/84789479966>**

**Or Join by Telephone: 888-788-0099 (Toll Free); Meeting ID: 847 8947 9966.**

**View Meeting Agenda and Materials: <https://www.texasbar.com/cdrr/participate>**

---

1. Call to Order; Roll Call
2. Comments from the Chair
3. Discussion and Possible Action: Approval of the Minutes of the Last Meeting (Bates Numbers 000003 – 000005)
4. Discussion and Possible Action: 2023-24 Year-End Report from the State Bar of Texas Taskforce for Responsible AI in the Law (TRAIL) (Bates Numbers 000006 – 000037)

*Consider Initiation of the Rule Proposal Process and Possible Publication of Proposed Rule Amendments in the Texas Bar Journal and Texas Register; Consider Possible Amendments to and Recommendation of Comments to Proposed Rule or any existing Rules*

5. Discussion and Possible Action: Changes to Texas Rules of Disciplinary Procedure (Bates Number 000038)

*Consider Initiation of the Rule Proposal Process and Possible Publication of Proposed Rule Amendments in the Texas Bar Journal and Texas Register; Consider Possible Amendments to and Recommendation of Comments to Proposed Rules and any existing Rules*

6. Discussion: Referendum and Consideration of the Rule Proposals by the Supreme Court of Texas
7. Agenda Items for Next Meeting
8. Adjourn

---

Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Reasonable modifications and equal access to communications will be provided upon request. For assistance, please contact Haksoon Andrea Low at (877) 953-5535 or (512) 427-1323 at least five working

days prior to the scheduled meeting so that appropriate arrangements can be made. Individuals with speech or hearing disabilities can contact Ms. Low by routing through Relay Texas at phone number 7-1-1 or another designated phone number provided at [relaytexas.com](http://relaytexas.com).

**MEETING OF THE  
COMMITTEE ON DISCIPLINARY RULES AND REFERENDA**

June 5, 2024  
By Teleconference

**MINUTES**

**CALL TO ORDER OF THE MEETING AND ROLL CALL**

Chair Kinard called the meeting to order at 10:02 a.m. CDT. Mr. Squires called the roll, and a quorum was present.

Members Present: Chair M. Lewis Kinard; Timothy D. Belton; Amy Bresnen; Scott Brumley; Robert Denby (left at 10:30 a.m. and returned at 10:44 a.m.); Judge Phyllis Gonzalez; Jennifer Hasley; April Lucas (arrived at 10:04 a.m.); and Karen Nicholson.

State Bar of Texas Staff Present: Ray Cantu, Deputy Executive Director (arrived at 10:18 a.m.); Cory Squires, Staff Liaison; and Andrea Low, Disciplinary Rules and Referenda Attorney.

**COMMENTS FROM THE CHAIR**

Chair Kinard welcomed everyone to the meeting and thanked all who called in for their participation. He explained the Committee's purpose and mandate, directed the public to the Committee's website to find information about the Committee, and encouraged the public to participate in the process.

The Chair stated that he presented the Committee's Annual Report for 2023 at the meeting of the Board of Directors of the State Bar of Texas on April 19, 2024.

**APPROVAL OF THE MINUTES OF THE LAST MEETING**

Judge Gonzalez moved to approve the Minutes of the April 3, 2024, meeting. Mr. Brumley seconded the motion. The motion carried unanimously.

**RULES 1.04 FEES. AND 1.14. SAFEKEEPING PROPERTY  
TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT**

Ms. Bresnen, on behalf of the subcommittee, recommended that the Committee not vote to initiate any rule proposals at this time. She stated that the subcommittee preferred to take additional time to consider these rules.

The Committee took no action on these matters.

**AMERICAN BAR ASSOCIATION MODEL RULE OF PROFESSIONAL CONDUCT  
(ABA MRPC) 1.16. DECLINING OR TERMINATING REPRESENTATION**

Mr. Denby provided background on the changes to ABA MRPC 1.16, as adopted in August 2023. He recommended that the Committee consider the same issues and opined that the Committee may not want to adopt a similar rule, which may be ineffective against money laundering.

Committee members discussed whether existing disciplinary rules regarding fraud, misconduct, and candor toward the tribunal are sufficient. The Committee asked that the Chief Disciplinary Counsel present findings on grievances regarding lawyers who have not properly identified their clients at the next meeting.

The Committee took no action on this matter.

**ABA MRPC 5.5. UNAUTHORIZED PRACTICE OF LAW;  
MULTIJURISDICTIONAL PRACTICE OF LAW**

The Committee agreed to consider this matter after the Supreme Court of Texas holds a hearing on May 6, 2024, to consider the rule proposals approved by the Bar membership.

**RULE 9.01. SEVERABILITY  
TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT**

Ms. Bresnen requested that the Committee pass on this matter but consider it in its future discussions of artificial intelligence.

**INTERIM REPORT TO THE STATE BAR OF TEXAS BOARD OF DIRECTORS  
FROM TASKFORCE FOR RESPONSIBLE AI IN THE LAW (TRAIL)**

Chair Kinard suggested that the Committee consider amendments to rules and interpretive comments based on the TRAIL report and examples from ethics committees and courts in California, Florida, North Carolina, and New Jersey. The Committee discussed current consideration of AI by the Texas legislature and judiciary. The Committee agreed to consider this further at the next meeting.

The Committee took no action on this matter.

**RULES VOTE 2024  
(REFERENDUM ORDERED BY SUPREME COURT OF TEXAS)**

Ray Cantu, Deputy Executive Director of the State Bar of Texas, reported on the referendum. Mr. Cantu stated that the State Bar sent approximately 113,000 ballots to members, which resulted in a turnout of 18-19%.

Chair Kinard stated that he, Mr. Denby, and Ms. Bresnen will appear before the supreme court at a hearing on the rule proposals on May 6, 2024, at 3:00 p.m. Chair Kinard stated that the

Committee could submit recommendations for interpretative comments and renumbering to the supreme court.

### **AGENDA ITEMS FOR FUTURE MEETINGS**

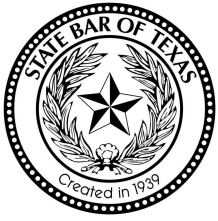
The Committee had no agenda items to add.

Ms. Lucas and Ms. Hasley agreed to follow up with the Chief Disciplinary Counsel regarding ABA MRPC 1.16 before adding this item to the agenda in the future.

### **ADJOURNMENT**

Mr. Brumley moved to adjourn the meeting. Ms. Bresnen seconded the motion. The motion carried unanimously. The meeting was adjourned at 11:01 a.m. CDT.

DRAFT



# STATE BAR OF TEXAS



**LAW PRACTICE  
MANAGEMENT**

**Taskforce for Responsible AI  
in the Law**

**2023-24 Year-End Report**

# Taskforce for Responsible AI in the Law

## Members of the Taskforce

John Browning, Chair

Lisa Angelo

Hon. Roy Ferguson

Andrew Gardner

Megan Goor-Peters

Reginald Hirsch

Heather Hughes

Devika Kornbacher

Daniel Linna

Hon. Xavier Rodriguez

Elizabeth Rogers

Jacqueline Schafer

John Sirman

Jason Smith

Danny Tobey

Peter Vogel

Daniel Wilson

State Bar of Texas Staff Liaisons

Sharon Sandle

Joshua Weaver

# General Recommendations

Artificial intelligence (AI) is a rapidly emerging and potentially disruptive technology that presents attorneys and judges with risks and opportunities. The Taskforce for Responsible AI in the Law (TRAIL) recommends the following actions to facilitate the successful integration of AI into the practice of law in Texas:

## Operational Recommendations

1. The State Bar Board of Directors should form a task force for the 2024–25 fiscal year to continue studying AI's effect on the practice of law in Texas and to implement the TRAIL recommendations outlined here.
2. The 2024–25 State Bar Committee Review Task Force should form a new standing committee on emerging technology.



# Background

In 2023, under the leadership of State Bar President Cindy Tisdale, the State Bar of Texas formed TRAIL to address the growing impact of AI on the legal profession. TRAIL worked to identify ways that the emergence of new AI technology might affect the practice of law and how lawyers, judges, and the State Bar should respond. The work of TRAIL focuses on crafting guidelines, navigating challenges, and embracing the potential of AI within the legal profession. As the discussion progressed, TRAIL recognized that it is important to distinguish between AI that has already been integrated into technology for many years in such applications as autocorrect, text editors, search algorithms, and chatbots and AI that specifically includes models that create new, original content such as text, images, or music based on the data they have been trained on. TRAIL has focused its efforts primarily on the potential effects of generative AI on the legal profession, although this report refers more generally to AI, consistent with its initial charge upon formation. Many future AI systems will consist of a variety of computational tools, from rules-driven AI, databases, and knowledge graphs to machine learning and generative AI tools.

TRAIL envisions a future where the integration of AI in the legal profession is innovative, intentional, and principled. Striving to lead the way in Texas and beyond, TRAIL's focus is on crafting standards and guidelines that enhance legal practice through the implementation and incorporation of AI tools, without sacrificing the core values of justice, fairness, and trust. To this end, TRAIL focused on educating Texas legal practitioners and judges about the benefits and risks of AI and fostering the ethical integration of AI within the legal profession. The mission of TRAIL was to explore the uncharted frontiers of AI in the legal profession, approaching this new world with caution and optimism and ensuring that technology serves the legal community and the public without compromising the profession's central values. TRAIL investigated how legal practitioners can leverage AI responsibly to enhance equitable delivery of legal representation in Texas while upholding the integrity of the legal system and strove to make recommendations to the State Bar's Board of Directors consistent with this goal.

This report represents an initial step in understanding the integration of AI within the legal profession. This report identifies the areas in which AI is already changing the practice of law and outlines recommended steps as this technology evolves. These recommendations are broad, reflecting the way that AI has touched nearly every area of legal practice. These recommendations also include some manageable steps that can be accomplished in short order along with some ongoing initiatives and aspirational goals. Integrating AI into the practice of law in a responsible way is a long-term objective, and as AI continues to develop, these action items and continued work by the State Bar will help practitioners responsibly and ethically adapt and evolve.

# Accomplishments

**AI Summit.** TRAIL held a summit in Austin at the Texas Law Center on February 26, 2024, inviting stakeholders from across the legal community. Members of TRAIL moderated sessions on several issues identified by TRAIL as important to lawyers in addressing the risks and opportunities presented by AI. Topics included ethical use of AI; addressing AI through legal education; cybersecurity and privacy concerns; use of AI in the courtroom; and AI and access to justice. The group of approximately 40 attendees included TRAIL's Supreme Court liaison Justice Debra Lehrmann and State Bar Executive Director Trey Apffel. The discussion included consideration of TRAIL's preliminary recommendations in its interim report. A report summarizing the discussion that took place during the summit and the recommendations made by the participants is included as Appendix A.

**Ethics Opinion.** On behalf of TRAIL, Chair John Browning submitted a request for an ethics opinion to the Professional Ethics Committee. The request sought guidance on applying Texas Disciplinary Rules of Professional Conduct to the use of AI, including the lawyer's:

- duty to provide competent representation (tech competence),
- duty of confidentiality,
- duty to safeguard client communications and property,
- duty of supervision (both to other lawyers and to nonlawyer or virtual assistants),
- duty of candor to the tribunal, and
- duty to charge a reasonable fee.

**Request to Modify the MCLE Rules.** Browning also recommended to the State Bar of Texas MCLE Committee that it consider mandating one hour per year of technology-related CLE.

# Accomplishments Continued

**AI Survey.** At TRAIL's request, the State Bar of Texas Department of Research and Analysis conducted a survey to gather information on Texas attorneys' attitudes toward AI and how they are using AI in the workplace. The population of the survey was a stratified random sample of 20,000 Texas attorneys, based on metropolitan statistical areas. With 651 respondents, there is a margin of error of  $\pm 4\%$ .

A summary of the results of the survey is included as Appendix B. Some important findings from the survey include:

- Although a minority of Texas attorneys currently use AI in their practice, most attorneys believe that AI will have a major impact on the practice of law.
- Use of AI is more concentrated in large firms than in small firms or solo practices.
- The primary reasons attorneys gave for not using AI in their practices were cybersecurity concerns, ethical concerns, and not knowing how to use it.
- Only 5% of survey respondents stated that they have no concerns about the use of AI in the practice of law. Concerns about privacy and the ethical use of AI were identified by over 60% of respondents.
- Over 70% of respondents favored requiring CLE training in the ethical use of AI.

Please Note: The sample was randomly stratified based on Texas metropolitan statistical areas. The margin of error is accurate for this sample as a whole. While a greater percentage of attorneys with more years of experience responded to the survey, which indicates some level of response bias, there were no significant differences in the responses regarding AI concerns or regulations in the population, so weighting was not necessary for this sample.

# Taskforce Recommendations

## Substantive Recommendations

TRAIL recommends that the 2024–25 task force on AI begin implementing the following:

1. **Best Practices.** Develop guidelines for the responsible and ethical use of AI, including guidelines for how to identify when AI uses confidential information or personal data and for protecting confidential information and personal data.
2. **Educational Outreach**
  - **Self-service Presentation.** Develop a self-service presentation (slide deck) covering practical use cases and examples of responsible uses of AI, made available to State Bar members, and presented at each bar section meeting at least once in 2024 and 2025. To incentivize participation, TRAIL suggests offering CLE credits to attendees.
  - **Toolkit.** Create an AI toolkit that can be distributed through the State Bar’s website.
  - **List of Social Media Resources.** Compile a list of reputable groups and associated social media accounts on LinkedIn and Facebook so that bar members can continue to learn about AI in bite-size amounts over the next few years.
  - **Collaboration with Legal Education Institutions.** Collaborate with law school deans and law professors to create practical law courses focused on using AI, thereby enhancing the practical aspects of legal education with AI technology.
  - **Direct-to-Consumer AI Tools.** Develop strategies for ensuring that direct-to-consumer legal AI tools reliably provide accurate information that is usable and effective in helping solve legal problems.
  - **Tools for Self-represented Litigants.** Consider developing tools to guide the constructive use of AI for self-represented litigants.
  - **Evaluation.** Compile resources for organizations developing AI tools for legal services about the testing, evaluation, validation, and verification of AI tools and conducting impact assessments (such as the National Institute of Standards and Technology Risk Management Framework and related resources).

# Taskforce Recommendations

## Substantive Recommendations Continued

3. **Ongoing Study.** Undertake ongoing review and study of AI-related issues to stay abreast of the rapid evolution and advanced rate of adoption within the legal profession. Opportunities for ongoing study include:
  - **Polling the Judiciary.** Poll members of the judiciary to gain insight into how AI is being used by and in the courts and measure the comfort and concern levels of its members.
  - **AI Use Case Studies.** Identify examples of Texas lawyers and judges applying AI to their work and draft case studies.
  - **Annual Review of AI Issues.** Annually review AI usage by Texas lawyers and its risks.
  - **AI Response in Other States.** Continually review other state and national legal organizations' reviews and recommendations regarding AI and the legal profession.
  - **Monitor Legislation Related to AI.** Review state and federal laws regarding AI and advise Texas lawyers of any changes that would or could affect the practice of law.
  - **Healthcare-related Issues.** Engage with chief legal officers (CLOs), chief information officers (CIOs), chief privacy officers (CPOs), chief information security officers (CISOs), and risk management professionals to understand their perspectives on AI use in healthcare.
  - **Employment-related Issues.** Lawyers deal with employment-related issues and are often employers themselves. Engage the State Bar of Texas Labor and Employment Law Section to publish a list of all legislation and regulations in this area that practitioners should be aware of.
  - **Dispute Resolution.** Explore the potential for AI technology to help with dispute resolution and dispute avoidance.
  - **Support for Texas Legal Aid Providers.** Generate ideas for supporting Texas legal aid providers as they build out their own legal AI tools.
  - **Access to AI Tools.** Develop recommendations for how to ensure self-help legal AI tools are accessible to people who may have limited internet access or low proficiency in using computers and mobile devices or who are non-English speakers.
  - **Low-cost Access to AI Tools.** Address the potential for unequal access to AI technology; that is, legal aid providers will be shut out of access to expensive AI tools that may be accessible to only large firms and corporations. Encourage legal technology vendors to provide low-cost access to such tools.
  - **AI and Innovative Legal Services.** Explore ideas for innovative legal services platforms based on AI.
4. **Cooperation with the Information Security Community.** Consider cooperation between the State Bar and the Chief Information Security Officer (CISO) community to learn more about their perspective on cybercriminals' use of AI.

# Taskforce Recommendations

## Substantive Recommendations Continued

TRAIL recommends that the State Bar of Texas, either through the work of the task force or through the committees or departments of the bar, as appropriate, implement the following:

5. **Review of Texas Rule of Civil Procedure 13.** The Supreme Court of Texas Rules Advisory Committee and the State Bar of Texas Court Rules Committee should explore Texas Rules of Civil Procedure 13, “Effect of Signing Pleadings, Motions and Other Papers; Sanctions,” and evaluate whether additional language or guidance is necessary for Texas lawyers and self-represented litigants regarding the need to verify the accuracy of all filings and an obligation to avoid AI-generated misinformation or hallucinations, as well as to provide Texas judges with adequate remedies regarding the same.
6. **Rules of Evidence.** The Rules Advisory Committee and Court Rules Committee should also address whether changes to the Texas Rules of Evidence are needed to address deep fakes and AI-manipulated evidence.
7. **Annual AI Summit.** Hold an annual or semiannual AI summit, at which stakeholders from multiple State Bar–affiliated entities gather to discuss AI and share best practices regarding its use. Such an event might also involve reviewing the work of other state bars and AI task forces around the country and sharing information.
8. **Bar Magazine Articles.** To ensure that information reaches every member of the bar community, create concise one- or two-page articles that cover practical use cases, examples of responsible uses of AI, and information on cybersecurity to be disseminated through the State Bar’s email newsletters and magazines, specifically tailored to cater to a less technical audience. The aim is to provide accessible and digestible insights into the world of AI and its relevance to legal practice.
9. **Business Mentor Program.** To bridge the gap between tech-forward lawyers and those seeking guidance, implement a business mentor program for bar members. Experienced lawyers well-versed in technology can mentor less technologically sophisticated lawyers, sharing ideas on how to incorporate tech into their practice. This could be designed in coordination with supporting retiring lawyers who want to transition their practice to the next generation of attorneys.
10. **Scholarship Fund for Upskilling.** Offer discounts on AI tools to mitigate the costs that attorneys may expend in upskilling their practices.
11. **Practice-specific Education:** Offer CLE programs for lawyers and judges to understand how healthcare providers, device manufacturers, insurers, employers, etc. are currently using AI tools. This understanding is crucial for protecting individuals, patients, and workers' privacy and other rights.

# Taskforce Recommendations

## Substantive Recommendations Continued

12. **CLE Training.** Include cybersecurity and AI training in CLE events.
13. **Mandatory Continuing Legal Education (MCLE) on AI.** Mandate that Texas lawyers attend CLE courses about the ethical and practical uses of AI for lawyers in the first five years following passage of the bar exam.
14. **Cooperation with AI Vendors.** Begin exploring a working relationship with AI vendors for potential use by Texas lawyers, similar to the State Bar's access to Fastcase.
15. **Information for Self-represented Litigants.** Post information for the public about the responsible use of and risks of misuse of AI by self-represented litigants.

## Judicial Initiatives

TRAIL has identified opportunities for the judiciary to facilitate the responsible integration of AI into the courts.

1. **Judicial Education Program.** The Texas Center for the Judiciary should create and offer an educational program on AI and its ethical dimensions for Texas judges. This would educate trial and appellate judges on attorney use of generative AI and measures for judicial oversight.
2. **Mandatory Course on AI for Recent Graduates.** The Supreme Court of Texas should consider amending its mandatory professionalism course for recent law school graduates, to include a segment on the benefits and risks of generative AI.
3. **Best Practices.** The Supreme Court of Texas should consider developing a list of best practices for the use of AI in the courts.

## Paralegal Initiatives

Recognizing the vital role paralegals play in the legal ecosystem, TRAIL identified opportunities for facilitating their use of AI.

1. **MCLE Requirements.** The State Bar of Texas Paralegal Division should mandate that one hour of a paralegal's annual CLE requirement be in technology.
2. **Paralegal Empowerment.** The State Bar should dedicate a one-page article in the Texas Bar Journal and the Texas Paralegal Journal to addressing the unique perspectives and responsibilities of paralegals and the integration of AI in their daily tasks.

# Purpose of the Report

This report to the Board of Directors details TRAIL's work, including its findings, recommendations, and proposed future activities.

## Scope and Limitations

The recommendations outlined in this report represent the consensus of TRAIL after its research and discussion during the 2023–24 fiscal year. The recommendations comprise a broad list of ideas, many of which will require additional research and planning either by a future task force or (more likely) a more permanent standing committee. The topic of AI has attracted the attention of the media, academia, and government. It is a broad issue with implications for almost every facet of society. TRAIL's attention, however, is limited to consideration of the ramifications of AI, with an emphasis on generative AI, for the practice of law.

## Conclusions

AI has arrived in the legal community, promising to change the way attorneys practice law. TRAIL's work since its formation has highlighted some of the areas for further study and research necessary to fully understand how AI will impact the legal community.

Above all, the recommendations reflect that AI is developing rapidly, and continued guidance, recommendations, and scholarship are necessary to help the legal community stay abreast of the developments of new technologies. Even as of the date of this writing, releases of new models with new capabilities have opened the door to more possibilities.

TRAIL acknowledges that the recommendations represent an initial step in understanding AI and integrating it into the legal profession. Much further research, collaboration, and planning will be necessary to implement these recommendations effectively.

TRAIL has laid a foundation for addressing the impact of AI on the legal profession in Texas. The recommendations put forth in this report serve as a road map for the State Bar of Texas to navigate the challenges and embrace the potential of AI while upholding the integrity of the legal system. As AI continues to evolve rapidly, ongoing efforts by the State Bar, in collaboration with key stakeholders, will be crucial in ensuring that the transformative power of AI is harnessed responsibly to enhance legal practice and serve the public interest.



# Taskforce for Responsible AI in the Law

Report on the 2024 Texas AI and Law Summit

February 26, 2024, Texas Law Center, Austin, Texas

## Moderators:

John Browning, Chair TRAIL

Hon. Xavier Rodriguez\*

Hon. Roy Ferguson \*

Lisa Angelo\*

Reginald Hirsch\*

Peter Vogel\*

Joshua Weaver\*

## Attendees:

Senior Justice Debra Lehrmann  
SBOT President Cindy Tisdale  
SBOT Executive Director Trey Apffel

Hedy Bower

Seth J. Chandler

Matt Cordon

Megan Goor-Peters\*

Nina Hess Hsu

Heather Hughes\*

Greg Ivy

Virginia Izaguirre

Lyndsay Jackson

Casey Kennedy

Prof. Randall Kelso

Sharon Kolbet

KaLyn Laney

Sarah Keathley

Dan Linna\*

Megan LaVoie

Trish McAllister

Emily Miller

Joncilee Miller

James McQuiggan

Allison Neal

Zoe Niesel

Kent Ninomiya

Elizabeth Rogers\*

Sharon Sandle\*

Greg Sampson

Jacqueline Schafer

Jonathan Smaby

Betty Balli Torres

Jeffrey Tsunekawa

Mark Unger

Jessica Vittorio

Jonathan Vickery

Seana Willing

Daniel Wison\*

---

\* Indicates a member of the Taskforce for Responsible AI in the Law

## Recommendations

The Artificial Intelligence (“AI”) Summit Attendees’ discussion resulted in the following recommendations:

- TRAIL should request a formal ethics opinion on the use of AI and generative AI by lawyers, including when it can be used and how to bill for its use. As a result of the discussion during the Summit, TRAIL Chair John Browning sent a request to the Professional Ethics Committee requesting an ethics opinion and has received a letter confirming that the PEC is working on preparing an ethics opinion in response to the request
- For attorneys using AI, Texas Rule of Civil Procedure 13 places the burden of proof on the filer to ensure they understand what they are doing, while Chapters 9 and 10 of the Texas Civil Practice & Remedies Code (“CPRC”) require reasonable diligence from the filer. The Supreme Court's Rules Committee should clarify the rules without being specific to AI and generative AI.
- The State Bar should educate lawyers and judges about the responsible use of AI and generative AI. This should include educational materials for judges, training on metadata, CLEs on prompting, data privacy, and responsible document sharing. Short-take CLE products and AI topics tailored to specific practice areas could also be effective. Education efforts could involve the Texas Access to Justice Commission (“ATJ”), the State Bar, pro bono groups, and other organizations, with resources provided on the State Bar website.
- A toolkit should be created, focusing on AI and cybersecurity more broadly, written in plain language, and maintained by the State Bar.

## Executive Summary

The Taskforce for Responsible AI in the Law held an AI Summit in Austin at the Law Center on February 26, 2024. Members of the Taskforce moderated sessions on several issues identified by the Taskforce as important to lawyers in addressing the risks and opportunities presented by AI and generative AI. Topics included ethical use of AI, addressing AI through legal education, cybersecurity and privacy concerns, use of AI in the courtroom, and AI and access to justice. The Taskforce invited stakeholders from across the legal community to attend the discussion. The group of approximately 40 attendees included Supreme Court Senior Justice Lehrmann, Rules Attorney Nina Hsu, representatives from several Texas Law Schools, a representative from Texas Health Resources, and representatives from State Bar Committees including the CLE Committee, the Court Rules Committee, and the Law Practice Management Committee.

## Ethical and Privacy Concerns

The AI Summit discussion focused on how the existing ethics rules apply to AI, and whether the existing rules are adequate in providing guidance to attorneys on how to use AI ethically. The group also considered whether additional ethics rules are necessary to provide attorneys with guidance and to protect clients.

The AI Summit attendees discussed AI broadly instead of focusing only on Generative AI. The AI Summit attendees noted that AI has become so pervasive in most technology applications that it is not feasible for attorneys to eliminate the use of AI, even if that were desirable. It would therefore

not be feasible for an attorney to effectively represent a client without in some way making use of AI.

The AI Summit attendees also noted that ethical and effective representation of a client might require not using AI in some situations and using it judiciously in other situations. The possibility exists that as AI, particularly generative AI, becomes more pervasive, failing to utilize this technology might be unethical in that the attorney is not adequately using the tools available.

2018 Ethics Opinion 680 requires lawyers to understand the technology they use, including cloud services. TRAIL's Interim Report proposed requesting a formal ethics opinion on the use of AI by lawyers, including when it can be used and how to bill for its use. The discussion at the Summit supported this recommendation.

An ethics committee should define due diligence for electronic services, as the level of risk varies among AI applications.

Transparency in AI is expected to improve, and lawyers need to review privacy notices and terms of service. Debate exists on whether increasing the technology CLE requirement is necessary, as market forces may address the issue and lawyers learn about AI risks quickly.

While the AI Summit discussion did not propose drafting additional ethics rules specifically addressing AI, the group did note that any new rules should be AI-agnostic, emphasizing the lawyer's responsibility for the contents of signed documents.

## AI in the Courtroom

Discussion by the AI Summit attendees about the role of AI and generative AI tools in the courtroom focused on three areas: the use of AI by pro se litigants, the use of AI by attorneys, and the use of AI by court staff.

Pro se litigants will likely use any available AI tools, especially if they are free and accessible. Courts may want to warn pro se litigants about the risks of AI and legal research, potentially through clerks, standing orders, or pro se and self-help centers. Concerns exist about pro se litigants becoming overconfident in their case due to AI-generated content.

For attorneys using AI, Rule 13 places the burden of proof on the filer to ensure they understand what they are doing, while Chapters 9 and 10 of the CPRC require reasonable diligence from the filer. The Supreme Court's Rules Committee could clarify the rules without being specific to AI and generative AI. In addition to the risks inherent in using AI, there are potential benefits for attorneys. For instance, a free AI tool that checks citations for hallucinations could benefit good actors.

Nearly a quarter of judges use AI, and while responsible use in drafting opinions is permissible, requiring disclosure of AI use is not recommended. Standing orders educating about AI are encouraged, but those requiring disclosure are not.

Deep fakes and the authenticity of evidence are concerns, and Texas Rule of Evidence 901 should be reexamined in this context.

Recommendations include reviewing educational materials for judges, considering pretrial hearings for evidentiary challenges, and providing training on metadata. Education efforts could involve the ATJ, State Bar, Pro Bono Law Group, and other organizations, with resources provided on the State Bar website.

## AI in Legal Education

Law schools should be encouraged to address the challenges and benefits of technology and AI in their curricula. AI education could be embedded in legal writing courses or offered through short CLE presentations. The State Bar can support law schools by clarifying what "professional competence" means concerning AI and offering nuts-and-bolts education for new lawyers.

Law students need to understand the terms of use of AI services, data privacy, and the complexity of de-identification.

CLEs on prompting, data privacy, and responsible document sharing could be helpful. Short-take CLE products and AI topics tailored to specific practice areas could also be effective.

Real-time, AI-driven spoken communication might transform how people learn about AI.

## AI and Cybersecurity

AI is being used to create more effective phishing emails and malware, with threat actors patiently collecting information before attacking.

Continuous training is crucial for all staff members, not just attorneys. Cybersecurity issues need to be translated into plain language for better understanding. Solo and small firm attorneys need resources and toolkits, particularly regarding cyber insurance.

The State Bar could remind attorneys about the availability of cybersecurity insurance and resources. Cyber insurance requires affirmative steps to protect data and may not cover all potential problems.

Lawyers should understand where their data resides and take advantage of free resources for training and risk assessments.

A toolkit should be created, focusing on AI and cybersecurity more broadly, written in plain language, and maintained by the State Bar.

## AI and Access to Justice

The AI Summit attendees discussed the potential benefits of AI and generative AI for increasing access to justice. However, many attendees also expressed concern that AI and generative AI is not an adequate substitute for qualified legal assistance. Concerns were raised about over-reliance on AI and generative AI as a method of providing low-cost legal services. Some members of the group

proposed considering safe harbors or coverage for attorneys doing pro bono work with AI, while some members opposed this proposal.

Other proposals included increasing support and funding for legal aid to serve as a testing ground for AI adoption and exploring the use of AI, including AI and generative AI videos, to create more educational and empathetic resources for pro se litigants.



# STATE BAR OF TEXAS



**LAW PRACTICE  
MANAGEMENT**

**2024  
AI In the Practice of Law  
Survey**

# Overview

The 2024 State Bar of Texas AI in the Practice of Law Survey was conducted electronically from May 2nd to May 16th. The primary purpose of the survey was to gather information on how Texas attorneys are using AI in the workplace.

The population for the survey was a stratified random sample of 20,000 Texas attorneys, based on Texas metropolitan statistical areas. Excluded were attorneys who have opted out of optional emails from the State Bar. The sample totaled 20,000 active attorneys as of December 31, 2023.

A total of 651 members participated in the survey. With 651 respondents, there is a margin of error of  $\pm 4\%$ . This means that if 40% of the respondents answered “yes” to a question, we can be 95% confident that the actual proportion of the population who would answer “yes” to the same question is 4 percentage points lower or higher than 40% (36% to 44%).

---

# Respondent Demographics

Provided here are the demographics of survey respondents. Please Note: The sample was randomly stratified based on Texas metropolitan statistical areas. The margin or error is accurate for this sample as a whole. While a greater percentage of attorneys with more years of experience responded to the survey, which indicates some level of response bias, there were no significant differences in the responses regarding AI concerns or regulations in the population, so weighting was not necessary for this sample.

	AI Survey Respondents N = 651		All Active Attorneys N = 113,771	
<b>Years Licensed *</b>				
2 or less years	25	4%	8,105	7%
3 to 6 years	32	5%	10,192	9%
7 to 10 years	35	6%	11,656	10%
11 to 15 years	47	7%	14,694	13%
16 to 20 years	74	12%	13,794	12%
21 to 25 years	81	13%	11,522	10%
Over 25 years	340	54%	43,807	39%
<b>Age</b>				
21 to 25 years	1	<1%	301	<1%
26 to 30 years	19	3%	7,292	6%
31 to 35 years	31	5%	11,207	10%
36 to 40 years	30	5%	13,686	12%
41 to 45 years	53	9%	14,103	12%
46 to 50 years	70	11%	12,098	11%
51 to 55 years	72	12%	12,003	11%
56 to 60 years	62	10%	10,178	9%
61 to 65 years	73	12%	9,595	8%
More than 65 years	201	33%	23,307	20%
<b>Primary Occupation</b>				
	<i>(N = 550)</i>		<i>(N = 83,505)</i>	
Private Practitioners				
Solo Practitioners	172	31%	17,412	21%
2 to 5 attorneys	104	19%	12,315	15%
6 to 10 attorneys	40	7%	4,140	5%
11 to 24 attorneys	22	4%	4,460	5%
25 to 40 attorneys	12	2%	2,313	3%
41 to 60 attorneys	10	2%	1,280	2%
More than 60 attorneys	20	4%	10,112	12%
Subtotal	380	69%	52,032	62%
Government Attorney	55	10%	8,435	10%
Full-Time Judge	8	1%	1,723	2%
Law Faculty	6	1%	578	1%
Corporate/In-House Counsel	51	9%	10,167	12%
Other Law Related	14	3%	2,992	4%
Other Non-Law Related	6	1%	2,483	3%
Public Interest Lawyer	4	1%	1,285	2%
Retired-Not Working	23	4%	3,073	4%
Unemployed-Looking	2	<1%	267	<1%
Unemployed-Not Looking	1	<1%	470	1%



# Summary Findings

The following is a summary of the 2024 AI in the Practice of Law Survey.

Most attorneys reported they do not use AI in their practice. Of the 30% that do use AI, there tends to be a correlation with those that work in corporate/in-house counsel, work in large firms, and have been licensed fewer years.

**30%**

30% of respondents indicated that they or their firm use AI in their practice.

Most notable AI tool: Chat GPT (55%)

Primary use: Legal Research (53%)

Why not used by some: Ethical Concerns (49%)

Primary concern: Ethical issues and misuse of AI (69%)

Impact: A majority of attorneys believe AI will have an impact on the practice (72%).

Regulation: Most attorneys think training and CLE in the ethical use of AI (71%) should be required.

# AI Use

Respondents were asked if they or their employers use AI in their practice. 30% responded that they do.

The occupations with the highest percent of attorneys using AI was Corporate/In-House Counsel (51%), Other law related (50%), and Law Faculty (50%).

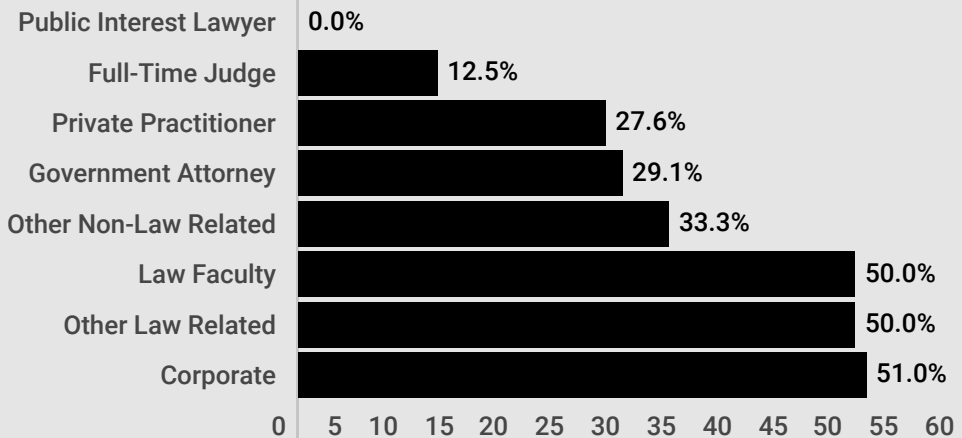
AI Use

30%

## AI Use by Occupation

51%

Corporate/In-House Counsel had the highest percent of that reported using AI in their practice.



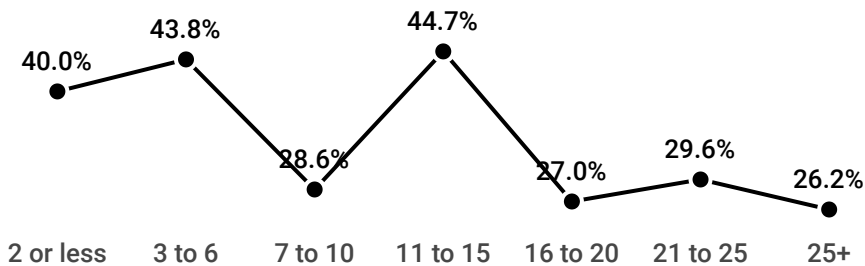
# AI Use Continued

The use of AI was also reviewed based on years of experience and law firm size. Both experience and firm size showed a strong correlation with AI use.

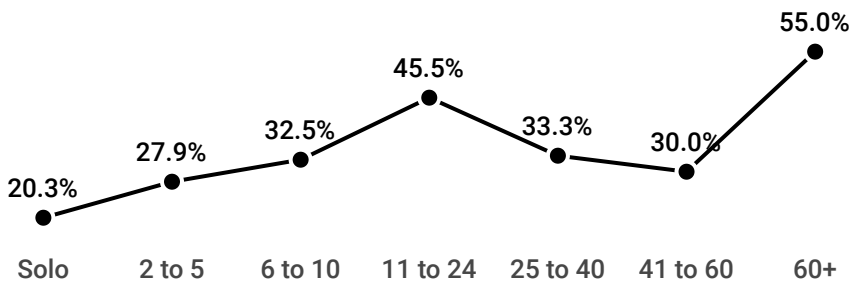
There was a decrease in the percentage that reported using AI with an increase in years of experience. Of the attorneys with 2 or less years of experience, 40% reported using AI, while 26% of attorneys who have 25 or years of experience reporting using AI.

AI use also increased with respondents that reported working in larger firm sizes. While 20% of solo practitioners reported using AI, 55% of attorneys in firms with 60 or more attorneys stated they use AI.

## AI Use by Experience



## AI Use by Firm Size



# AI Use Continued

Respondents were asked to indicate the areas of law they practice in. These responses were reviewed in relation to their AI use.

Business law (40%) and commercial law (34%) were the areas that had the highest percent reporting using AI in their practice.

	Category Responses	Category Percent
Immigration law	13	6.7%
Tax law	18	9.3%
Bankruptcy law	24	12.4%
Employment law	31	16.0%
Administrative law	35	18.0%
Criminal law	36	18.6%
Intellectual property law	40	20.6%
Family law	43	22.2%
Personal injury	45	23.2%
Real estate law	49	25.3%
Wills	49	25.3%
Other	55	28.4%
Corporate law	57	29.4%
Commercial law	65	33.5%
Business law	77	39.7%

# AI Tools

Respondents that indicated they use AI in their practice were asked which AI tools they use. Chat GPT was the primary tool that attorneys reported using.

Half of all respondents that use AI selected more than one AI tool that they use. The average number of tools selected was 2.

	Category Responses	Category Percent
Chat GPT	107	55.2%
Other	68	35.1%
Microsoft Co Pilot	61	31.4%
Google Bard/Gemini	29	14.9%
Lexis AI	26	13.4%
Claude	18	9.3%
Casetext	14	7.2%
Practical Law Generative AI	11	5.7%
Lex Machina	5	2.6%

Most notable "other" tools reported include Grammarly and Westlaw.

Percent of respondents that use more than one AI tool in their practice.

**50%**

Average number of AI tools used by respondents.

**2**

# How AI is Used

Attorneys that use AI in their practice were asked how they are using it. Legal research (53%) is the primary way AI is used in the practice of law, followed by drafting (36%) and communication (33%).

	Category Responses	Category Percent
Legal research	103	53.4%
Drafting (pleadings)	70	36.3%
Communication (correspondence)	64	33.2%
Other	45	23.3%
Marketing/advertising	33	17.1%
Document Management	29	15.0%
Discovery	28	14.5%
Communication	17	8.8%
Scheduling	14	7.3%
Client intake/screening	12	6.2%

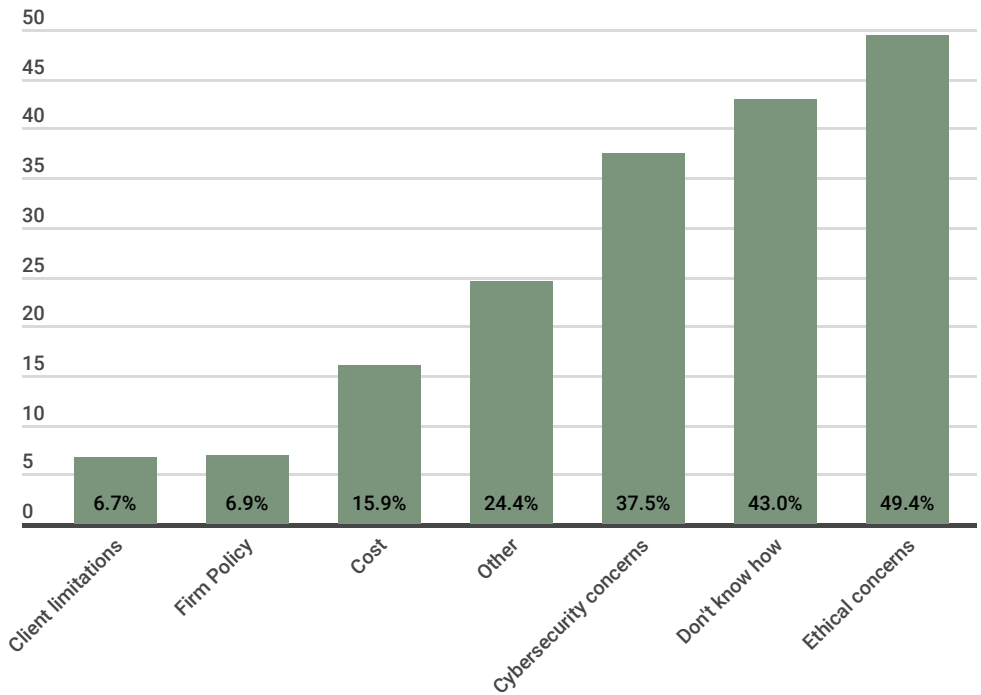
# Why AI is not used by Some

Of the 67% that report they do not use AI in their practice, only 9% plan on using it in the next year.

The primary reasons attorneys stated they don't use AI include ethical concerns (49%) and because they don't know how (43%).

Ethical Concerns

49%

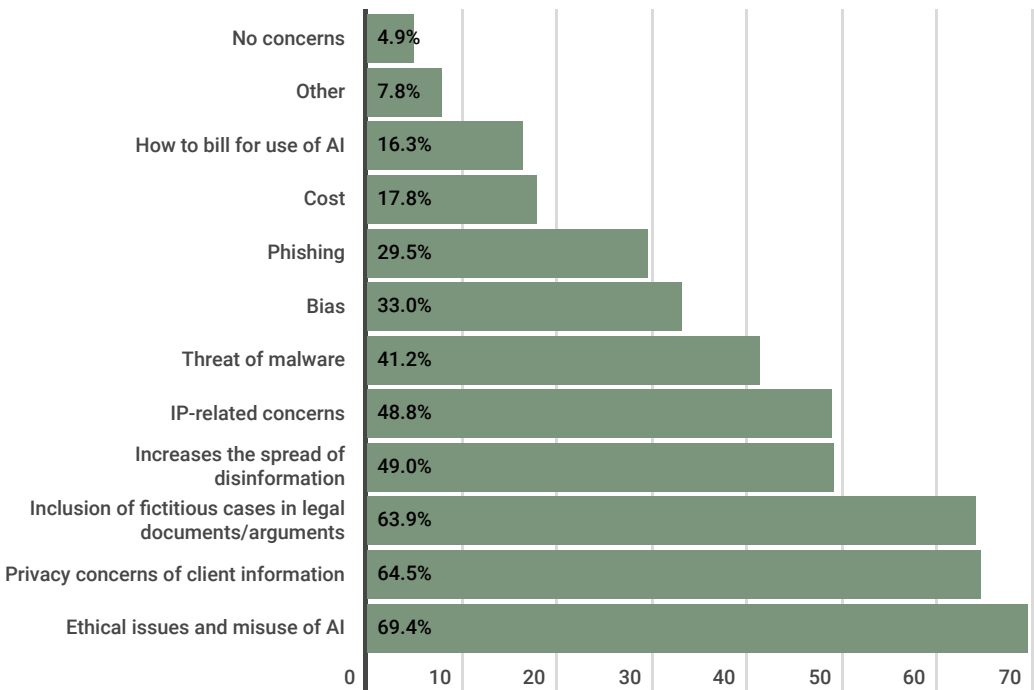


# Concerns

Only 5% of respondents stated they have no concerns with the use of AI in the practice of law. The most notable concern mentioned was ethical issues and the misuse of AI (69%).

Ethical Issues

69%





# Regulation

With a majority of attorneys reporting some level of concern with the use of AI in the practice of law, it makes sense that 71% of respondents think that training and CLE in the ethical use of AI should be required.

Requires Training  
and CLE

71%

	Category Responses	Category Percent
Require training and CLE in the ethical use of AI	455	71.4%
Require disclosure of the use of AI in court filings	360	56.5%
Require disclosure of the use of AI to clients	322	50.5%
Require policies regarding the benefits and risks associated with the use of AI	298	46.8%
Other	78	12.2%
No regulation	62	9.7%

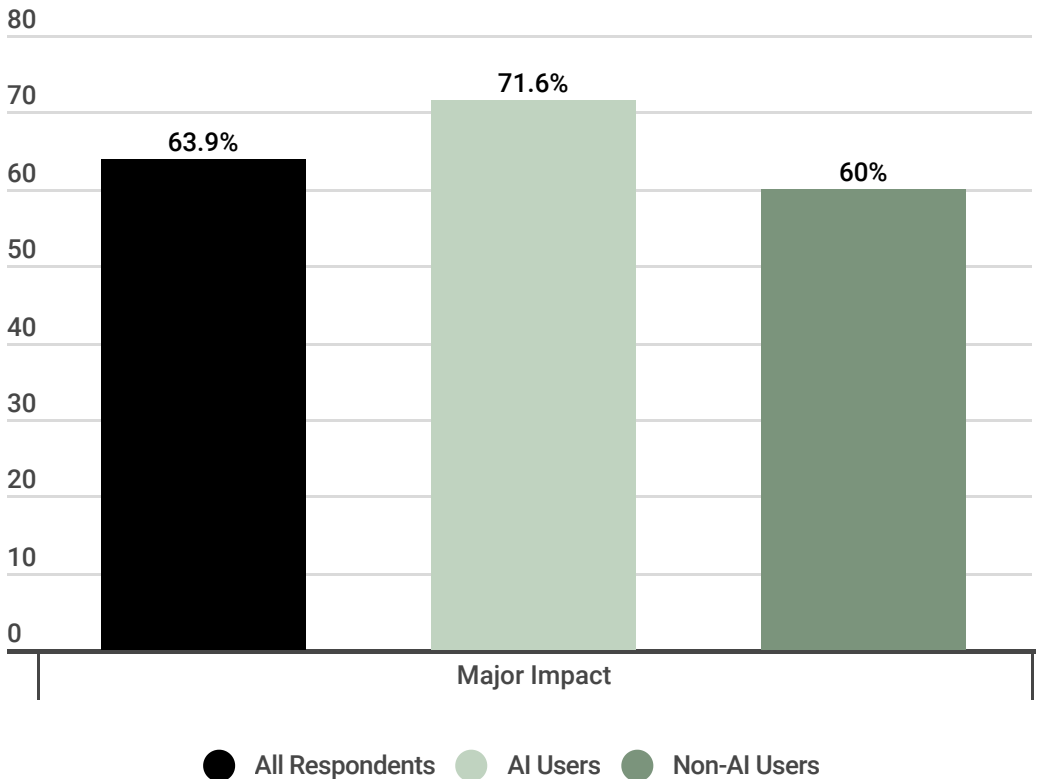
# Impact on the Profession

Respondents were asked to rank the level of impact they think AI would have on the profession. They were provided with a scale of 1 to 5 (1 being no impact and 5 being major impact). A response of 4 or 5 was used here to denote "impact."

Impact

72%

A majority of all attorneys reported that they think AI would have a major impact on the practice of law.



# Ethics Opinions and Guidance Regarding Artificial Intelligence

## Lawyer Ethics Opinions:

D.C. Bar Ethics Opinion 388, Attorney's Use of Generative Artificial Intelligence in Client Matters.  
[Ethics Opinion 388](#)

Florida Bar Ethics Opinion 24-1.  
[Opinion 24-1 – The Florida Bar](#)

Missouri Informal Opinion 2024-11 (Office of Legal Ethics Counsel and Advisory Committee of the Supreme Court of Missouri), Lawyer's Use of Generative Artificial Intelligence (AI); Candor to the Court or Tribunal; Competence; Confidentiality; Supervision of Nonlawyers.  
[Informal Opinion Number: 2024-11 - MO-Legal-Ethics.org](#)

North Carolina State Bar Proposed 2024 Formal Ethics Opinion 1, Use of Artificial Intelligence in a Law Practice. The proposed opinion is no longer publicly posted. After publication and period for comment, the Ethics Committee returned the inquiry to its subcommittee for further study.

Pennsylvania Bar Association: Joint Opinion 2024-200, Ethical Issues Regarding the Use of Artificial Intelligence.  
[2024-200 - Joint Formal Opinion 2024-200 \(May 22, 2024\): ETHICAL ISSUES REGARDING THE USE OF ARTIFICIAL INTELLIGENCE](#)

West Virginia Lawyer Disciplinary Board Request for Comments, Draft Legal Ethics Opinion 24-01, Artificial Intelligence.  
<https://files.constantcontact.com/75edd16b001/db6ae758-78c8-41e3-93aa-cd57c1caeb03.pdf>

## Judicial Ethics Opinions:

Michigan Judicial Ethics Opinion JI-155:  
[https://www.michbar.org/opinions/ethics/numbered\\_opinions/JI-155](https://www.michbar.org/opinions/ethics/numbered_opinions/JI-155)

West Virginia Judicial Advisory Opinion 2023-22.  
[JIC Advisory Opinion 2023-22](#)

## ABA Formal Opinions:

ABA Formal Opinion 512, Generative Artificial Intelligence Tools.  
[Formal Opinion 512](#)

ABA Formal Opinion 477R, Securing Communication of Protected Client Information.  
[https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/ethics-opinions/aba-formal-opinion-477.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-477.pdf)

### **Guidance from State Bar Associations and Courts:**

State Bar of California, Practical Guidance for the Use of Generative Artificial Intelligence in the Practice of Law.

[Generative AI Practical Guidance - State Bar of California](#)

State Bar of Michigan, Artificial Intelligence for Attorneys – Frequently Asked Questions.

<https://www.michbar.org/opinions/ethics/AIFAQs>

New Jersey Supreme Court Committee on AI and the Courts, Notice – Legal Practice: Preliminary Guidelines on the Use of Artificial Intelligence by New Jersey Lawyers.

<https://www.njcourts.gov/notices/notice-legal-practice-preliminary-guidelines-use-of-artificial-intelligence-new-jersey>

Virginia State Bar, Guidance on Generative Artificial Intelligence.

<https://www.vsb.org/Site/lawyers/ethics.aspx>

### **State Bar Task Force Reports:**

New Jersey State Bar Association Task Force on Artificial Intelligence (AI) and the Law: Report, Requests, Recommendations, and Findings.

<https://njsba.com/wp-content/uploads/2024/05/NJSBA-TASK-FORCE-ON-AI-AND-THE-LAW-REPORT-final.pdf>

New York State Bar Association Task Force on Artificial Intelligence, Report and Recommendations to the NYSBA House of Delegates, April 6, 2024.

<https://nysba.org/app/uploads/2022/03/2024-April-Report-and-Recommendations-of-the-Task-Force-on-Artificial-Intelligence.pdf>

### **Judicial Task Forces:**

California Judicial Council Artificial Intelligence Task Force.

<https://www.courts.ca.gov/76644.htm>

New York State Unified Court System, Advisory Committee on Artificial Intelligence and the Courts.

[https://www.nycourts.gov/LegacyPDFS/press/pdfs/PR24\\_16.pdf](https://www.nycourts.gov/LegacyPDFS/press/pdfs/PR24_16.pdf)

### **Lawyer Disciplinary Case:**

*In re Crabill:*

[People v. Zachariah C. Crabill. 23PDJ067. November 22, ...](#)

**Legislation:**

A.B. 2811, California Legislature 2023–24 Regular Session. An act to add Section 6068.1 to the Business and Professions Code, relating to artificial intelligence. Amends the California State Bar Act.

[Bill Text: CA AB2811 | 2023-2024 | Regular Session | Introduced](#)

**ABA Compilations:**

*Artificial Intelligence: Legal Issues, Policy, and Practical Strategies*, Presidential ABA Task Force on Law and Artificial Intelligence and ABA Science and Technology Law Section, released July 26, 2024.

[Artificial Intelligence: Legal Issues, Policy, and Practical ...](#)

ABA Resolution 604 and Report on Artificial Intelligence.

<https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2023/604-midyear-2023.pdf>

ABA Task Force on Law and Artificial Intelligence.

[Task Force on Law and Artificial Intelligence](#)

ABA Website on State AI Task Force Information.

[State AI Task Force Information](#)

ABA/Bloomberg Law Lawyers' Manual on Professional Conduct – State Legal Ethics Guidance on Artificial Intelligence (AI)

<https://www.bloomberglaw.com/product/mopc/document/X2JK49QC000000>

# **Texas Rules of Disciplinary Procedure (Including Amendments Effective December 18, 2023)**

<https://www.texasbar.com/AM/Template.cfm?Section=Home&ContentID=62528&Template=/CM/ContentDisplay.cfm>