

TALHI 2026 Conference

THE ETHICS OF AI

Policy, Power, and Professional Responsibility in the Practice of Law

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Anthropic Staffers Say AI May Kill Us All Within 10 Years

Researchers say execs privately fear extinction-level risks from superintelligence



The Fundamental Shift in Computing

DETERMINISTIC CODE

Rules Written by Humans

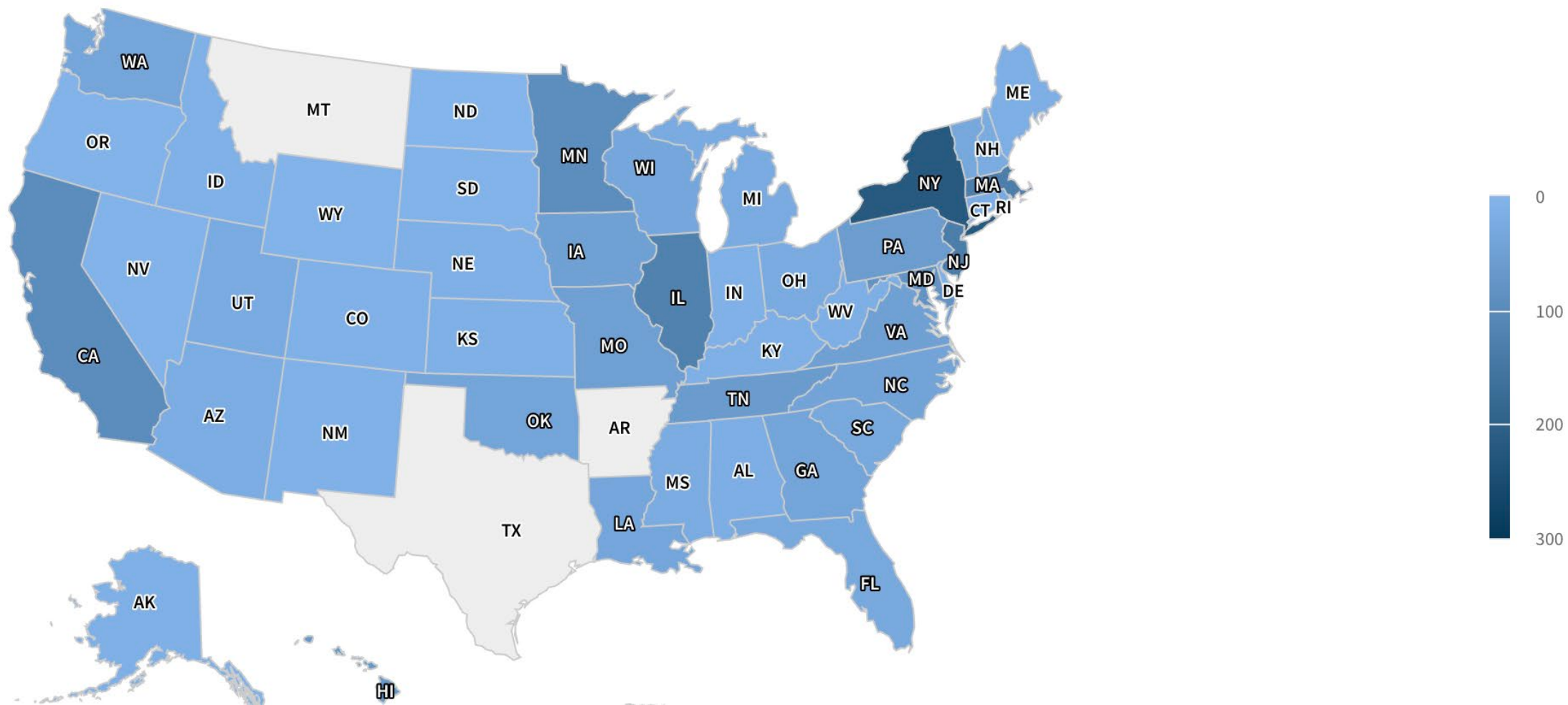
- Explicit step-by-step logic
- Predictable, auditable execution
- Human-authored decision trees

PROBABILISTIC MACHINE LEARNING

Patterns Derived from Data

- Statistical word & pattern matching
- Model opacity ('Black Box' dilemma)
- Autonomous execution & high velocity

THE POLICY TENSION: Fostering innovation while safeguarding individual rights, systemic stability, and due process.





▮ PRESIDENTIAL ACTIONS

ENSURING A NATIONAL POLICY FRAMEWORK FOR ARTIFICIAL INTELLIGENCE



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AI TOOLKIT

STATE BAR OF TEXAS

<https://www.texasbarpractice.com/artificial-intelligence-toolkit/>



AI TOOLKIT

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Among many other issues, lawyers should acquire basic technological competence before using any generative AI tool, should always ensure that the tool does not imperil confidential client information, should always verify the accuracy of any responses received from a generative AI tool, and should not charge clients for the time “saved” by using a generative AI program. Opinion 705 (2025)



AI TOOLKIT

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Understand Generative AI

- You have a duty to maintain technological competence (**Tex. Disciplinary R. Prof. Conduct R. 1.01, Comment 8**).
- You must independently verify Gen AI-generated results—never rely blindly.

Always Verify AI Outputs

- Double-check all Gen AI-generated content before use in client matters or court submissions.
- Uphold your ethical duties of honesty, fairness, and candor to the court.

Algorithmic Objectivity is a Fallacy

Automated systems mirror their creators' biases

HIRING & EMPLOYMENT

Automated screening tools filtering candidates based on demographic proxy data.

PUBLIC ADMINISTRATION

Algorithmic benefit determinations, credit access, and government risk scoring.

CRIMINAL JUSTICE

Predictive recidivism scoring tools influencing bail, sentencing, and parole.

CORE LEGAL PRINCIPLE: Disparate Impact vs. Discriminatory Intent

Removing explicit protected categories (race, gender, age) does NOT prevent algorithms from reconstructing them using highly correlated proxy variables (zip codes, education history, consumer behavior).

"In an era of deepfakes and misinformation that can be tailored to you individually, the ability to tell what is true from what is not becomes an essential life skill."

- Bill Gates

Erosion of Evidentiary Baselines

THE LIAR'S DIVIDEND

When authentic evidence is dismissed as 'AI-Generated'.

The mere existence of generative AI allows bad actors to undermine genuine video, audio, or document evidence in court proceedings and public discourse by claiming fabrication.

SYNTHETIC MEDIA & DEEPPAKES

Hyper-realistic voice cloning and video synthesis deployed at near-zero marginal cost, targeting brand reputation, elections, and corporate security.

FLUENT HALLUCINATIONS

Probabilistic language models asserting completely fabricated factual or legal claims with unwavering linguistic confidence.

Verification is Non-Delegable

ABA Formal Opinion 512 & Model Conduct Standards

MODEL RULE 1.1

Duty of Competence

- Comment 8 Mandate: Maintain technical competence by understanding technology's benefits AND risks.
- Prohibition on Unverified Reliance: Blindly relying on AI research without independent cite-checking violates basic competence.

MODEL RULES 3.3 & 3.4

Candor & Judicial Orders

- Factual & Legal Accuracy: Affirmative duty to ensure pleadings contain true law and facts.
- Court Disclosures & Sanctions: Submitting hallucinated cases triggers Rule 11 sanctions, court fines, and mandatory disclosure orders.



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Protect Client Confidentiality

- Always ensure client details remain secure.
- Vet your Gen AI tools carefully for robust security and privacy standards.
- Train your team to avoid unintended disclosures.

Protecting Client Data & Human Accountability

MODEL RULE 1.6: CONFIDENTIALITY

Public LLMs & Data Exposure

- Public LLM Risks: Pasting client secrets, trial strategy, or unredacted terms into consumer AI can waive attorney-client privilege.
- Terms of Service Audit: Lawyers must verify zero data-retention and confirm vendor promises not to train future models on client inputs.

United States v. Heppner (2026) but also Warner...

MODEL RULES 5.1 & 5.3: SUPERVISION

Subordinates & Vendors

- Supervising Humans & Systems: Partners and managers must supervise junior lawyers, paralegals, and non-lawyer tech vendors.
- Accountable Judgment: You cannot outsource legal reasoning to an algorithm. The lawyer remains personally liable for final work product.



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Practice Fair and Ethical Billing

- Only bill clients for actual time spent working, reflecting Gen AI efficiencies in your invoices.
- Clearly communicate and agree on any Gen AI-related fees or subscriptions billed to clients.

Billing & Client Transparency

WHEN AI COLLAPSES TIME FROM HOURS TO SECONDS

How do hourly billing models adapt when efficiency increases tenfold?

MODEL RULE 1.5: REASONABLE FEES

- Actual Time Billing: Lawyers charging hourly cannot bill for time saved by AI.
- Expense Surcharges: AI tool overhead cannot be marked up without agreement.

MODEL RULE 1.4: COMMUNICATION

- Informed Client Disclosure: When AI use substantially affects the representation or cost structure.
- Client Consent: Transparency regarding generative tool deployment on client matters.

Organizational Risk Management

1. ACCEPTABLE USE POLICY

Internal AUP defining clear boundaries for permissible vs. prohibited AI use cases across the firm.

2. VENDOR DUE DILIGENCE

Rigorous audits of third-party software for enterprise security, zero-retention, and model provenance.

3. COMPLIANCE FRAMEWORKS

Aligning practice with global standards: EU AI Act risk tiers & NIST AI Risk Management Framework.

Interactive Ethics Hypotheticals

HYPOTHETICAL 1

Brief Drafting

An associate uses an LLM for a motion to dismiss, cite-checks only case names in the table of authorities, and misses a fabricated holding.

Key Focus: Rules 1.1, 3.3, 5.1

HYPOTHETICAL 2

Confidentiality Leak

A solo practitioner pastes an unredacted draft settlement agreement into a free consumer tool to generate a summary for a client.

Key Focus: Rule 1.6 & Privilege

HYPOTHETICAL 3

Billing Structure

A firm uses AI doc review reducing review time by 80%. They consider charging a flat percentage of traditional cost.

Key Focus: Rule 1.5 & Disclosure

Three Core Imperatives

01

VERIFICATION IS NON-DELEGABLE

AI tools are drafting aids; human judgment remains personally accountable.

02

CONFIDENTIALITY BY DESIGN

Client data must remain behind enterprise zero-retention protections.

03

CLEAR INTERNAL POLICIES

Establish written organizational rules on acceptable tools and oversight.