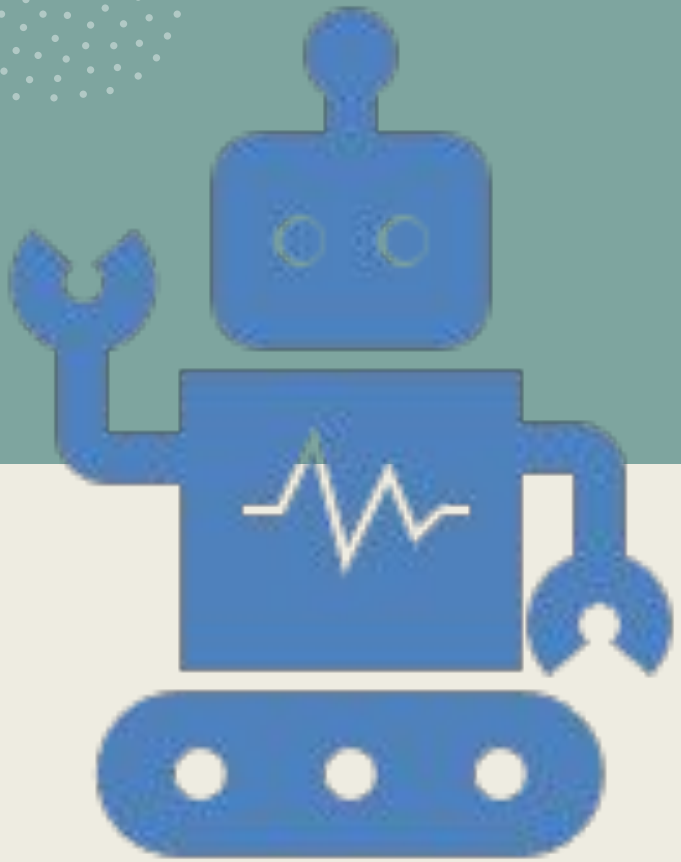


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Program summary

CLE Focus

GenAI can improve speed and scale in research, drafting, review, and client service, but lawyers remain responsible for the quality and ethics of the final work.

This program examines competence, confidentiality, communication, supervision, candor to tribunals, and billing issues raised by generative AI.

It also addresses real-world failures such as fabricated citations, insecure inputs, overreliance on summaries, and weak disclosure practices.

Goal: help attorneys use GenAI as a tool without surrendering independent professional judgment.

Why this topic matters

Faster work

GenAI now touches drafting, review, search, and summarization.

Higher risk

The same tools can hallucinate, omit context, or mishandle confidential data.

No delegation of judgment

Ethical duties remain with the lawyer, not the software.

Judicial scrutiny has increased as courts respond to fabricated citations and unsupported AI-generated filings.

ABA Formal Opinion 512

Key themes

Lawyers must understand the benefits and risks of the specific generative AI tools they use.

AI is not a substitute for independent professional judgment or verification of important outputs.

Confidentiality analysis is required before inputting client information, especially into self-learning tools.

Client disclosure or informed consent may be required depending on the use case, the sensitivity of the information, and the impact on representation or billing.

Main Model Rules – THERE ARE OTHERS!

Rule 1.1

Competence

Rule 1.6

Confidentiality

Rule 1.4

Communication

Rules 5.1/5.3

Supervision

Rules 3.1/3.3

Candor and meritorious claims

Rule 1.5

Reasonable fees

Competence means more than tech curiosity (Rule 1.1)

Competence requires

Understanding a tool's task fit, failure modes, and source limits.

Knowing when AI assistance is appropriate and when traditional methods are still necessary.

Updating knowledge as tools and risks change.

Competence does not mean

Blind reliance on persuasive-looking output.

Using a tool without knowing where data goes.

Assuming vendor marketing equals legal reliability.

Confidentiality and data security (Rule 1.6)

Questions to ask first

Is the tool public, enterprise, or self-learning?

Will inputs be retained, reused, or used for model training?

Who can access the data and where is it stored?

Does the matter involve especially sensitive regulated information?

Practical rule

Do not put client confidential information into a tool unless you understand the security terms, the data flow, and whether consent is required.

When disclosure or consent may be required (Rule 1.4)

Significant use

If AI materially affects how legal work is performed or reviewed.

Sensitive data

If confidential information may reach a third-party or self-learning system.

Billing impact

If AI changes how time or value should be communicated to the client.

Client expectations

If the client would reasonably want to know the tool is being used.

Should engagement letters address AI? (Yes! Rule 1.4)

Best practice points

Consider describing approved AI use in plain language for appropriate matters.

Address confidentiality protections, attorney review, and the limits of AI-generated content.

Coordinate the engagement letter with firm AI policies, outside counsel guidelines, and client instructions.

Boilerplate alone may not be enough for informed consent if the risk profile is material.

Fees and billing issues (Rule 1.5)

Likely permissible

Charging for actual attorney time spent prompting, reviewing, revising, and exercising judgment.

Passing through appropriate, disclosed tool costs where allowed and reasonable.

Likely problematic

Charging as though the lawyer personally spent time the tool actually saved.

Failing to explain material AI-related costs or methodology where client expectations require transparency.

Supervision: Rules 5.1 and 5.3 in practice

Supervise lawyers

Train attorneys on approved use cases, red flags, and review standards.

Supervise staff

Nonlawyers using AI need instructions, limits, and escalation paths.

Supervise vendors

Third-party AI providers must be vetted for confidentiality, security, and reliability.

Bias, fairness, and client harm [Rules 8.4(d) and (g)]

Where bias appears

Training data

Prompt framing

Missing context

Uneven datasets

Overconfident summaries

Possible harms

Skewed risk assessments

Inaccurate employment or housing analysis

Stereotyped narratives

Unfair settlement framing

Unequal service quality

Mitigation

Diverse review

Counterfactual testing

Human challenge process

Context checking

Client-specific verification

Human judgment remains non-delegable (Rules 3.1, and 3.3)

- AI can assist with pattern recognition and first-pass drafting, but it cannot decide strategy, credibility, proportionality, or client objectives.
- Lawyers must evaluate whether the output is legally sound, factually supported, and suitable for the matter.
- The closer the task is to legal advice, advocacy, or strategic judgment, the higher the required level of human review.

Hallucinations are an ethics problem, not just a tech glitch

What goes wrong

- Invented cases
- Misquoted holdings
- Incorrect procedural history
- False factual summaries
- Confident but unsupported reasoning

Why it matters

- Can mislead clients
- Can mislead courts
- Can distort settlement decisions
- Can increase cost through rework
- Can trigger discipline or sanctions

Controls

- Check sources
- Pull the actual authority
- Validate quotations
- Confirm dates and citations
- Review every critical assertion

What GenAI Actually Does

Useful functions

Summarizes documents and transcripts.

Generates outlines, drafts, and issue lists.

Clusters or prioritizes large document sets.

Suggests edits, questions, and alternative language.

Core limitations

Does not “understand” truth or legal validity the way a lawyer must.

May invent facts, citations, quotations, or legal standards.

May reflect bias, missing context, or weak source grounding.

Output quality depends heavily on tool design, data, and supervision.

Common legal use cases

Research

Issue spotting, case summaries, authority mapping.

Drafting

Emails, memos, clauses, first-pass briefs.

Discovery

Document summaries, deposition themes, chronology building.

Client service

Plain-language explanations and communication support.

Knowledge management

Template retrieval, policy comparison, training aids.

Internal operations

Workflow automation and admin efficiencies.

GenAI-assisted legal research

Appropriate uses

Preliminary issue spotting

Finding possible lines of authority

Summarizing a known case set

Generating questions for deeper research

Required safeguards

Pull and read the actual authorities.

Check whether the cited law still exists and is still good law.

Confirm that propositions match the cited source.

GenAI-assisted drafting

Good starting uses

Outlines

Clause alternatives

Plain-language rewrites

Issue checklists

Style harmonization

Common drafting risks

Invented support

Overstated confidence

Hidden assumptions

Biased wording

Loss of client-specific nuance

Editor's job

Interrogate assertions

Restore nuance

Adapt to facts

Check law

Own the final draft

Discovery and document review

Potential value

Rapid summarization of large document sets.

Chronologies, witness themes, and issue clustering.

Drafting follow-up questions for depositions or meet-and-confer efforts.

Ethical caution

Overinclusive or underinclusive summaries can distort case assessment.

Sampling may be acceptable for some tasks, but not where accuracy is mission-critical.

Privilege, confidentiality, and protective-order issues must be analyzed first.

Client communications and GenAI

- GenAI can help translate complex legal concepts into plain English, but lawyers must ensure tone, accuracy, and strategic fit.
- An AI-generated client email can be dangerous if it overstates certainty or omits key caveats.
- Clients may appreciate efficiency, but many care deeply about confidentiality, billing, and whether a human lawyer truly reviewed the advice.

Judicial expectations are rising

What courts expect

Filed work must be accurate whether or not AI helped generate it.

Citations, quotations, and record references must be verified before filing.

Lawyers cannot shift blame to a chatbot, vendor, or subordinate.

Some courts and judges are issuing standing orders or requiring disclosures about AI use.

Sanctions and cautionary developments

Recurring pattern

Lawyer uses AI for research or drafting.

False authorities or quotations appear in the filing.

Counsel fails to verify before submission.

Court imposes sanctions, reputational harm, or both.

Practical lesson

Every court filing requires source validation.

If a result seems unusually helpful or oddly specific, check it twice.

AI risk increases when time pressure and confirmation bias increase.

What every law office needs in an AI policy

Approved tools

Name which tools may be used and for what tasks.

Data rules

Define what information may never be input.

Review standards

Set validation expectations by task type.

Training

Require periodic instruction and updates.

Escalation

Create a process for novel or high-risk uses.

Documentation

Preserve records where material use affects a matter.

How To Pick a Good Gen-AI Tool

1. Choose the tool

Use approved tools only.

2. Screen the data

Remove or protect sensitive information as needed.

3. Prompt carefully

Define the task and output limits.

4. Verify output

Check law, facts, and tone.

5. Document judgment

Record material review decisions when warranted.

Vendor due diligence checklist

- Data retention and model-training terms.
- Encryption, access controls, and auditability.
- Confidentiality commitments and subcontractor terms.
- Source-grounding or citation features.
- Ability to disable retention or learning from prompts.
- Contractual terms that align with client obligations and firm policy.

Scenario 1: Chatbot-drafted motion

Facts

Associate uses a public chatbot to draft a motion to dismiss and pastes in key facts and names. The draft includes three convincing cases.

Discussion points

Confidentiality risk from public-tool input.

Need to verify every authority.

Supervisory review obligations.

Possible client-communication and billing issues.

Scenario 2: GenAI summary for settlement advice

Facts

Partner relies on an AI-generated summary of 40,000 documents to recommend settlement. The summary misses a critical email chain.

Discussion points

Did the review method fit the risk of the decision?

Was additional validation required?

How should the team supervise AI-assisted factual synthesis?

What should be disclosed to the client after the miss is found?

Scenario 3: GenAI email to a client

Facts

An attorney uses GenAI to draft a client update. The email reads smoothly but overstates the likelihood of success and understates a filing deadline risk.

Discussion points

Communication duty and accuracy.

Need for lawyer review and calibration.

How AI can distort tone and certainty.

Best practices for client-facing AI-assisted writing.

Practical red flags

Too good to be true

Suspiciously perfect authority or a one-shot answer to a complex issue.

No source trail

Output cannot be traced back to reliable supporting material.

Sensitive facts

Matter involves personal, privileged, regulated, or highly strategic information.

Time pressure

Rushed review increases the chance of GenAI-confirmation bias.

Best practices checklist

- Use approved tools matched to the task.
- Protect confidential data before inputting anything.
- Verify important facts, law, and citations independently.
- Supervise lawyers, staff, and vendors using GenAI.
- Be transparent with clients when disclosure or consent is warranted.
- Adjust billing practices to reflect actual human work and value delivered.

Emerging issues to watch

Court disclosure orders

More tribunals may require AI disclosures.

Client outside counsel guidelines

More clients are restricting or prescribing AI use.

Product integration

AI will be embedded in standard research, drafting, and DMS tools.

Regulatory overlap

Privacy, cybersecurity, and sector rules will increasingly shape permissible use.

Professional liability

Claims will test what “reasonable supervision” looks like in AI-enabled practice.

Five takeaways to remember

1. AI can assist legal work, but the lawyer owns the judgment.

2. Confidentiality analysis comes before convenience.

3. Verification is mandatory for critical output.

4. Supervision duties apply to people and platforms.

5. Policies, training, and disclosure practices are now part of competent lawyering.

Where can GenAI help your practice most, and where should your risk tolerance stay highest?