

# Using AI-Generated Documents 'As-Is' Likely Violates Rules of Professional Conduct

Lawyers who use artificial intelligence to write work-related documents must oversee the process and review the results.

## Question

I have been reading a lot about artificial intelligence and computers writing briefs. Are there ethical issues if a lawyer uses software such as ChatGPT to write a brief or a legal memo?

## Answer

Artificial intelligence (AI) is now being used in the practice of law for creating legal documents. Most lawyers are familiar with using search engines and other programs to do research and gather information. Now computer software, such as ChatGPT, can draft documents, including legal memos or briefs. This is a new era for the practice of law.

Using AI to assist in the representation of a client is neither new nor an automatic violation of the Rules of Professional Conduct. Whether the use of AI violates ethics rules depends on how the AI is used and the oversight of the use. A lawyer is obligated, under SCR 20:1.1 and SCR 20:1.3, to provide competent and diligent representation to a client. Using AI to gather information or do research on a legal topic would be considered a normal part of providing diligent and competent representation.

But competent and diligent representation might go awry if a lawyer uses AI to draft a document and does not provide oversight of the process or does not review the resulting document. Clients are entitled to receive the best product possible from lawyers, which assumes that lawyers are applying their own knowledge and advocacy skills as part of the representation, whether in a court proceeding or a commercial transaction. Simply relying upon a computer-generated document would not meet that test.

There has been at least one instance of AI, by itself, receiving passing grades in law school courses, but passing law school classes does not equate to providing competent and diligent representation. Lawyers must apply their skills and their training to provide effective representation to clients. A singular reliance upon a computer-generated document would fall far short of the expectation of competent representation.

The ability of ChatGPT and other chatbots to create written documents is a new development. There is potential for expanded use of AI in the practice of law but using AI without proper oversight from lawyers could open the door to legal malpractice claims and potentially lawyer discipline. **WL**

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