



WSSFC 2025

Technology Track – Session 2

Implementing an AI Policy: What to Know

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About the Presenter...

Brent J. Hoeft is the Practice Management Advisor for the State Bar of Wisconsin's Practice411™ Practice Management Program. He guides State Bar members on increasing law practice productivity and efficiency and advises on all things law practice management, including legal technology, information security practices, technology competence, employee management, policy and systems implementation, business development and marketing, and improving client relationship management. Prior to his time at the State Bar of Wisconsin, Brent was in private practice since 2006. In 2010, he founded Hoeft Law LLC, Wisconsin's first completely web-based virtual law firm providing legal services in business law, cybersecurity, and estate planning. Brent was also the founder of FirmLock Consulting, LLC, a cybersecurity behavior awareness consulting firm focusing on assisting solo and small law firms with cybersecurity training, education, and implementation of policies and procedures to better protect law firm data. Brent is a frequent presenter on legal technology, practice management, and cybersecurity. Since 2018, he has served as co-chair of the Technology Track for the Wisconsin Solo and Small Firm Conference (WSSFC) Planning Committee and had the honor of serving as the Conference Chair in 2022. Brent received his B.A. in Psychology from the University of Wisconsin-Eau Claire and his law degree from Cleveland State University College of Law. He lives in the Madison area with his family, where he enjoys mountain biking, camping, photography, and all things Wisconsin sports.

Implementing an AI Policy: What to Know

2025 Wisconsin Solo and Small Firm Conference

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1. Introduction

Artificial Intelligence (AI) is making swift and significant impact on the legal industry. Establishing a clear AI policy focusing on ethical considerations, implementation strategies, and staff education, is crucial for law firms. This session provides a framework for law firms to follow when drafting a comprehensive AI policy.

2. Understanding AI in Legal Practice

AI in the legal context includes tools such as generative AI, predictive analytics, legal research automation, and AI-driven client service chatbots. When AI is used in these materials it is a reference to all of these different subsets of AI. These tools offer benefits like improved efficiency and accuracy in drafting documents, predicting litigation outcomes, and automating legal research. However, there are ethical and practical concerns, including bias in AI algorithms, client confidentiality risks, hallucination risks, and the need for lawyer supervision.

3. Ethical Considerations and ABA Formal Opinion 512

ABA Formal Opinion 512 addresses the use of AI in legal practice. This opinion focuses on the following ethical rules implicated when using AI in the practice of law:

- **Rule 1.1 – Competence:** Lawyers must understand the benefits and risks inherent in the technology they use or seek assistance to help them understand. This means that lawyers need to have a basic understanding of how AI tools work, their capabilities, and their limitations. They should also be aware of the potential risks associated with AI, such as bias, hallucinations, and basis of source information on model training, and take steps to mitigate these risks .
- **Rule 1.6 – Confidentiality:** AI tools must not compromise client confidentiality. Lawyers need to ensure that the AI tools they use have robust security measures in place to protect client data. They should also be aware of the data privacy laws and regulations that apply to their practice and ensure that their use of AI complies with these laws.
- **Rule 1.4 – Communication:** Clients should be informed when AI is used in their matters. Transparency is crucial in maintaining client trust. Lawyers should disclose the use of AI in their engagement letters and explain how AI will be used in their matters. They should also be prepared to answer any questions clients may have about the use of AI.
 - The stance taken here in the opinion is the source of much discussion. Historically, opinions on email and cloud computing also took the position that the client should be informed about the use of the technology. This position becomes more and more lax as the technology becomes ubiquitous. Some argue that any AI use by the firm should not require a disclosure to the client but rather should be a consideration depending on the nature of the use.
 - Of course all attorneys must be forthright if asked by a client on the firm's use of AI.

- **Rule 1.5 – Fees:** Billing for AI-assisted work must be reasonable and transparent. Lawyers should ensure that their billing practices reflect the use of AI and that clients are not overcharged for AI-assisted work. They should also be transparent about how AI is used to enhance efficiency and reduce costs. Law firms must never bill for time-saved by using AI or any other technology that improves efficiency.

Although not always required, lawyers should consider disclosing AI use in engagement letters and always ensure human oversight to verify AI-generated outputs. This approach not only upholds ethical standards but also fosters trust and transparency with clients.

4. Onboarding AI Tools

Successful integration of AI tools involves several steps:

- **Compliance with Data Protection Laws:** Ensure AI tools comply with relevant data privacy regulations and best practices.
- **Evaluation Criteria:** Assess AI tools based on accuracy, reliability, ease of use, data retention policies, model training practices, and vendor transparency.
- **Alignment with Firm Goals:** Choose AI tools that align with the firm's objectives and workflows.
- **Pilot Programs and Feedback:** Start with pilot programs in limited practice areas, collect feedback, and integrate AI tools with existing systems.
- **Policy Review and Updates:** Define approved tools and establish a schedule for regular policy reviews and updates.

5. Training and Supervision

Training staff on AI use is very important. This includes understanding AI capabilities and limitations, verifying AI outputs, and addressing bias awareness and fairness. Everyone in the law firm needs to understand the “why” it is so important to know how to responsibly use the tool and what is at stake if they fail to do so. Supervision protocols should ensure human review of AI-generated content, assign clear responsibility for AI-related decisions, and create protocols for addressing errors or misuse of AI. Ongoing education through CLE programs and internal workshops is also important.

Training should cover several key areas:

- **Understanding AI Capabilities and Limitations:** Educate staff on how AI tools work, what they can and cannot do, and the potential risks associated with their use.
- **Verifying AI Outputs:** Emphasize the need for human review and verification of all AI-generated content.
- **Bias Awareness and Fairness:** Address the importance of being aware of the potential for bias in AI algorithms.

Supervision protocols are also crucial:

- **Human Review of AI Content:** Ensure AI-generated content is reviewed and verified by humans for accuracy.
- **Accountability for AI Decisions:** Assign clear responsibility for AI-related decisions.
- **Escalation Paths for Errors:** Create protocols for addressing errors or misuse of AI.

These are the early years of AI tools and their rapid growth and development is difficult to stay current on. Therefore, ongoing education through Continuing Legal Education (CLE) programs and internal workshops is crucial to ensure that staff remain updated on AI developments and ethical considerations.

6. Building Your AI Policy

A well-structured AI policy should address the following areas:

- **Purpose and Scope:** Define the goals of the AI policy and the areas it covers.
- **Ethical Standards and Bias Awareness:** Outline the firm's commitment to ethical practice and bias awareness.
- **Data Protection and Confidentiality:** Detail measures to protect client data and ensure confidentiality.
- **Client Consent and Transparency:** Explain the steps to obtain client consent and maintain transparency.
- **Human Oversight and Validation:** Describe supervision protocols for AI-generated outputs.
- **Training and Education:** Outline training programs for staff on AI use.
- **Incident Response and Accountability:** Define protocols for addressing AI errors and ensuring accountability.
- **Authorized Tools and Usage:** List approved AI tools and their areas of use as well as any prohibited uses of AI within the firm.
- **Policy Review and Updates:** Establish a schedule for regular policy reviews and updates.

Appendix A: Workshop Materials

Law Firm Generative AI Policy (Template for Solo & Small Law Firms)

Disclaimer: This document is intended to serve as a guideline by way of example and for educational purposes only. The topics covered herein may not address every situation for every law firm. It is intended as a starting point and not a finished product. Users are encouraged to seek professional advice tailored to their specific circumstances.

1. Purpose and Scope

Sample Content: This policy outlines the ethical and operational guidelines for the use of generative Artificial Intelligence (AI) tools within our law firm. It applies to all staff, contractors, and affiliates who use AI technologies in the course of legal practice. The goal is to ensure compliance with ABA Model Rules, protect client confidentiality, and maintain professional standards.

Implementation Tip: Define which roles are authorized to use AI tools and for what purposes.

2. Ethical Standards

Sample content: All AI usage must comply with Wisconsin Supreme Court Rules Chapter 20, including but not limited to Rule 1.1 (Competence), Rule 1.6 (Confidentiality), Rule 1.4 (Communication), and Rule 1.5 (Fees). Lawyers must understand the capabilities and limitations of AI tools and ensure they do not replace professional judgment.

Attorneys MUST verify all AI-generated outputs before use in client matters.

Checklist:

- Have you reviewed the AI tool's accuracy?
- Is the output verified by an attorney?
- Are clients and courts informed when required on whether Generative AI is used?

3. Data Protection and Confidentiality

Sample content: AI tools must not be used to process or store client data unless the tool complies with data protection laws, best practices, and confidentiality requirements. Reasonable efforts will be made to ensure that the vendor meets secure data handling practices.

Implementation Tip: Maintain a list of approved AI tools and their data handling policies.

4. Client Consent and Transparency

The law firm must decide the extent to which they will require the use of AI to be disclosed to the client and whether client informed consent is necessary based upon the sensitivity of the information being used and the extent of the use with the tool. If the firm decides that consent should be obtained it then must be considered whether it should be documented in engagement letters or separate disclosures.

Sample content: We may use AI tools to assist in your matter. These tools have been selected after careful investigation by the firm and allow the firm to provide quality, efficient legal services to you. You have the right to request information on how these tools will be used with your matter.

Checklist:

- Is disclosure necessary for the situation?
- Is the disclosure in writing?
- If necessary, has the client signed a consent form?

5. Human Oversight and Verification

AI output must be reviewed and verified by an attorney before using anything that goes to a client or a court. AI should assist, not replace, legal analysis. This supervision extends to 3rd party vendors, outside counsel or co-counsel, and service providers (i.e. expert witnesses) that are used in connection with a client matter.

Sample content: All AI-generated content must be reviewed and verified by an attorney before submission, filing, or delivery. AI should always assist, and never replace, a lawyer's professional judgement.

Implementation Tip: Create a review protocol for AI-generated documents.

6. Training and Education

Staff must receive training on ethical AI use, including benefits, risks, limitations, and compliance requirements. Training should be updated annually.

Sample Content: All staff must complete annual training on ethical use of AI and compliance.

Checklist:

- Has training been completed?
- Are training materials updated?
- Is attendance documented?

7. Incident Response and Accountability

Any misuse or violation of the AI Policy must be reported immediately. The firm will investigate and take corrective action.

Sample Content: AI-related incidents or misuse must be reported to the managing attorney immediately upon learning of the incident.

Implementation Tip: Designate a compliance officer or point of contact for AI issues.

8. Authorized Tools and Usage

Only approved AI tools may be used. The firm maintains a list of authorized tools and their intended uses.

Sample Content: The following AI tools have been vetted by the firm and are authorized for use: [List authorized tools]. Use of unapproved AI tools is prohibited. Refer to the firm's approved tools list. The following uses of AI tools is prohibited: [create list of any prohibited uses – be specific].

Checklist:

- Is the tool on the approved list?
- Is the use case appropriate?
- Is the tool's output validated?

9. Policy Review and Updates

The policy should be reviewed at least annually and updated as needed to reflect changes in technology, law, and ethics.

Sample Content: This policy is reviewed annually by the managing attorney and updated as needed.

Implementation Tip: Schedule a recurring calendar event for policy review. Any updates and revisions should be followed by education and training of everyone within the firm.

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References and Resources

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