

# Weaving Professional Ethics with Artificial Intelligence

BY AMANDA HUNT, ESQ.



**You probably have always (or maybe never) wondered: what does crocheting have in common with the practice of law? With crocheting, a person can create intricate designs utilizing simple knots. Complicated patterns emerge after hours and hours of work and dedication. What you can create is only limited by your imagination. Any person who crochets will tell you with pride that there are no machines capable of crocheting. Machines create wonders, but they cannot duplicate the works that someone who crochets are able to create.**

Similarly, the practice of law takes time and dedication. The law profession is built upon years of education and more years of hard work. What starts with working through law school and passing the bar exam, leads to limitless ways of practicing law. What a lawyer can accomplish is only limited by their imagination. And similar to crocheting, no machine, no matter how advanced, is capable of lawyering (despite what some may believe). However, there is no doubt that the emergence and rapid evolution of technology, specifically artificial intelligence, has changed the practice of law.

A lawyer can use artificial intelligence to review discovery, draft contracts, research complex

legal issues, perform due diligence, and even draft legal briefs.<sup>1</sup> And while helpful, a lawyer could easily trample over the lines of professional ethics if they are not careful using artificial intelligence and other technologies. No one wants to be the next lawyer to be nationally shamed for citing to non-existent cases because they relied on artificial intelligence for their legal research.<sup>2</sup> Therefore, when using new technologies, it is important to keep your ethical obligations in mind.

First, remember your duty of competence! Rule 1.1 of the Nevada Rules of Professional Conduct (NRPC) provides, “[a] lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary

for the representation.” You should know what the technology you intend to use is capable of and know what its potential flaws are. Generative AI, by design, generates; this is great for creating ideas, but AI is willing to invent cases. Most courts do not accept invented cases as precedent.<sup>3</sup>



*In courtrooms where justice is perceived,  
Like crochet, ethics are weaved,  
With integrity's thread,  
And fairness widespread,  
The tapestry of law is achieved.*  
- Chat GPT 2023

Third, remember your duty of candor! Among other duties, NRPC 3.3 imposes a duty on lawyers to not make a false statement of fact or law to the court. Artificial intelligence is known for providing users with inaccurate information. Just because its result may align with your argument, does not make the information you are providing accurate. Relying on a case law cited by artificial intelligence or even relying on artificial intelligence to summarize the facts of a known case may end in a sanction order for violating your duty of candor to the court.

This profession can be difficult, and the use of artificial intelligence should be embraced as another useful tool to assist our practice. But it is not a replacement lawyer, and it has not sworn to uphold professional ethics. Use artificial intelligence to enhance your practice but use it cautiously and always with ethical considerations in mind. We should always aim to weave the principles of competence, confidentiality, and candor into the practice of law. Because every decision we make practicing law, even the tools we use to assist us, shapes the fabric of justice we crochet for the world.



**AMANDA HUNT** is senior counsel for Switch, an internet data center company. She is also a member of the Standing Committee on Ethics and Professional Responsibility, which is available to make advisory opinions on the ethical considerations of the practice of law.

**ENDNOTES:**

1. Laura Lorek, "How lawyers can take advantage of ChatGPT and other large language models disrupting the legal industry," ABA J. (May 11, 2023), available at <https://www.americanbar.org/groups/journal/articles/2023/how-lawyers-can-take-advantage-of-chatgpt-and-other-large-language-models-disrupting-the-legal-industry/>
2. See, e.g., Liz Dye, "ChatGPT Lawyers Get Slap on the Wrist from Court. But Infamy Is Forever," Above the Law (June 22, 2023), available at <https://abovethelaw.com/2023/06/chatgpt-lawyers-get-slap-on-the-wrist-from-court-but-infamy-is-forever/>
3. Rebecca Howlett & Cynthia Sharp, "ChatGPT: What Lawyers Need to Know Before Using AI," 12 GPSolo eReport, No. 11 (June 2023), available at [https://www.americanbar.org/groups/gpsolo/publications/gpsolo\\_ereport/2023/june-2023/chatgpt-what-lawyers-need-know-before-using-ai/](https://www.americanbar.org/groups/gpsolo/publications/gpsolo_ereport/2023/june-2023/chatgpt-what-lawyers-need-know-before-using-ai/)
4. *Id.*
5. Natalie, "What is ChatGPT?," OpenAI, available at <https://help.openai.com/en/articles/6783457-what-is-chatgpt> (accessed Aug. 24, 2023); see also Howlett & Sharp, *supra* n.2.

For example, many artificial intelligence models are found to have an inherent bias or known to be inaccurate at times.<sup>4</sup> It is imperative that a lawyer is aware of the potential flaws of the technology you are using so they do not rely on faulty information.

Second, remember your duty of confidentiality. NRPC 1.6 forbids lawyers from "reveal[ing] information relating to representation of a client ...". Be wary inadvertently of giving away your clients' confidential information when using artificial intelligence. Read the terms of service and any privacy policy to understand what data is collected from your use of the artificial intelligence platform and how that data is used. For example, ChatGPT "review[s] conversations" to "improve our systems" and "[y]our conversations may be reviewed by our AI trainers to improve our systems."<sup>5</sup>



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