

## GENERATIVE AI IN LEGAL PRACTICE: OPPORTUNITIES, RISKS, AND BEST PRACTICES

### LESSON PLAN

#### Course Description:

This one-hour course offers attorneys a concise introduction to generative artificial intelligence (GAI) and its implications for legal practice. Attendees will gain foundational knowledge of AI technologies, including GAI, learn practical use cases that can create efficiencies, and explore ways to implement GAI use in their legal practice.



The course will also cover the potential risks associated with GAI use, such as bias and confidentiality issues, and provide a framework for ethical GAI use in legal settings. Designed for attorneys looking to stay ahead in a rapidly evolving field, this course provides essential insights into the benefits and challenges of GAI in law, preparing participants to make informed decisions about AI adoption.


<b>Equipment Needed:</b> Laptop and availability to poll users
<b>Pre-course Assignments:</b> Recommendations from Committee on Professional Responsibility and Conduct on Regulation of Use of Generative AI by Licensees
<b>Fairness/ADA Issues to Cover:</b> This course raises awareness about bias in generative artificial intelligence technology and how to mitigate it.

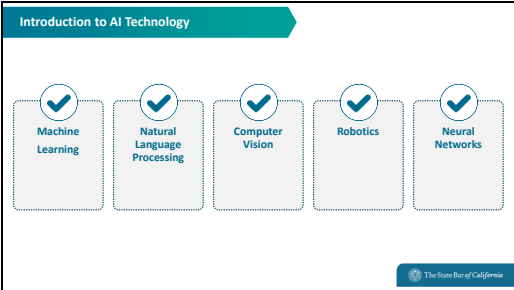
### LEARNING OBJECTIVES (LO)

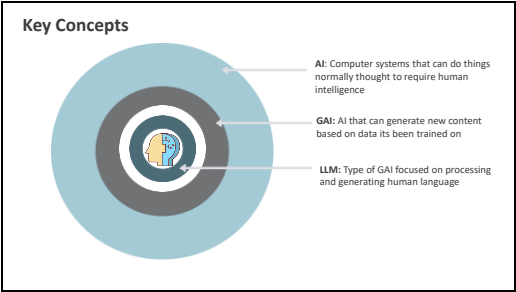
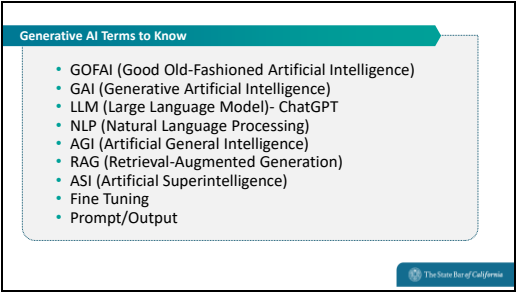
By the end of the course, participants will be able to:

1. Understand the Basics of GAI: Participants will gain foundational knowledge of GAI technologies, including key concepts and the types of GAI models that are most relevant to the legal field.
2. Identify GAI Use Cases in Legal Practice: Participants will learn about specific use cases, including document automation, contract review, and litigation support, and understand how these tools can enhance efficiency and accuracy.
3. Recognize the Benefits of GAI in Law: Participants will be able to list the major benefits of integrating GAI into legal practices, such as improved efficiency, reduced costs, and enhanced decision-making capabilities.
4. Assess Risks and Ethical Considerations: Participants will explore potential risks associated with using GAI in legal settings, such as issues of bias, privacy, and accountability, and discuss the ethical implications of deploying AI tools.
5. Apply Best Practices for AI Implementation: Participants will learn best practices for implementing AI technology in a legal environment, including how to choose the right tools, involve stakeholders in ethical considerations, and ensure compliance with legal standards.

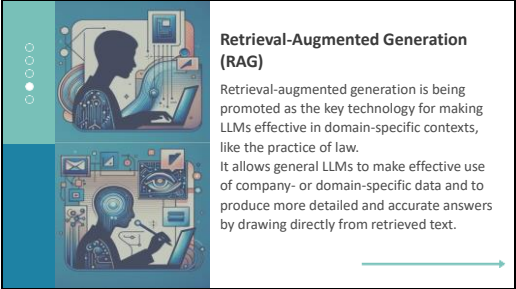
Time	Slide Number	Content	Teaching Method	Faculty Notes
5 mins	<b>Slide 1</b> 	<b>WELCOME AND INTRODUCTIONS</b>  Faculty should introduce themselves and welcome participants.  Explain that this course qualifies for one-hour MCLE credit in technology.	Lecture	Handle any housekeeping issues.
	<b>Slide 2</b> 	<b>COURSE OVERVIEW</b>  Understand the Basics of GAI Explore Possible Use Cases Examine the Risks and Ethical Considerations Determine the Best Practices for Implementation	Lecture/ Polling Question	Refer the participants to course handouts and the resources that will be discussed during the course, including applicable authorities.  Let the participants know that today they will learn about Generative Artificial Intelligence (Gen AI/GAI) basics, possible use cases, ways to assist clients, use risks, and understand the ethical considerations. The presentation ends with best practices for implementing GenAI into your practice.

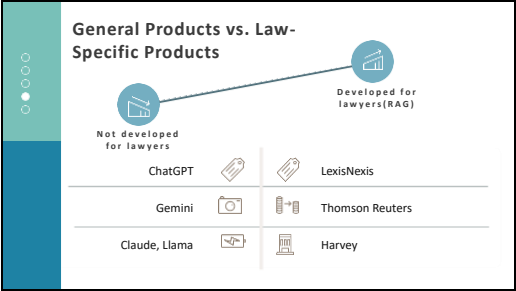
Time	Slide Number	Content	Teaching Method	Faculty Notes
				<p><b>Optional Polling Question:</b> Are you currently using generative AI in your legal practice?</p> <ul style="list-style-type: none"> <li>a. Yes</li> <li>b. No</li> </ul> <p><b>Answer:</b></p> <p>Either choice is correct. This provides faculty with an idea of the participants level of knowledge and primes the participant to begin thinking about their use of generative AI.</p>
	<p><b>Slide 3</b></p> 	<p><b>PROFESSIONAL CONSIDERATIONS FOR GAI USE</b></p> <p>Obligations Affecting Clients</p> <p>Obligations Affecting Courts</p> <p>Obligations Affecting Business of Law</p>	Lecture	<p>Provide the framework in the Venn diagram on screen. Explain that the presentation will cover professional responsibility rules as they apply to attorney use of GAI in 3 main ways.</p> <p>There's how it can impact the client, there's how it can impact the court, and there's the business side to GAI use.</p> <p>Describe the cross over in these three areas though. Explain that GAI use in each of these three areas requires a basic understanding of generative AI,</p>

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				which is tied to an attorney's duty of competence.
10 mins	<b>Slide 4</b> 	<b>INTRODUCTION TO AI TECHNOLOGY</b>  AI technologies encompass a range of tools and algorithms that enable machines to perform tasks that typically require human intelligence. These include: <ul style="list-style-type: none"> <li>• <b>Machine Learning (ML)</b></li> <li>• <b>Natural Language Processing (NLP)</b></li> <li>• <b>Computer Vision</b></li> <li>• <b>Robotics</b></li> <li>• <b>Neural Networks</b></li> </ul>	Lecture	Provide an overview of AI technologies that most people are familiar with and are commonly used and include examples.  <b>Machine Learning (ML):</b> Algorithms that learn from and make predictions based on data. Ex- predictive analytics  <b>Natural Language Processing (NLP):</b> Enables machines to understand and respond to human language. Ex- chatbots  <b>Computer Vision:</b> Allows computers to interpret and make decisions based on visual data. Ex- autonomous vehicles.  <b>Robotics:</b> Combines AI with physical machines to perform complex actions autonomously. Ex- surgical robots.  <b>Neural Networks:</b> Brain-inspired networks that help machines learn and make decisions. Ex- voice recognition systems.

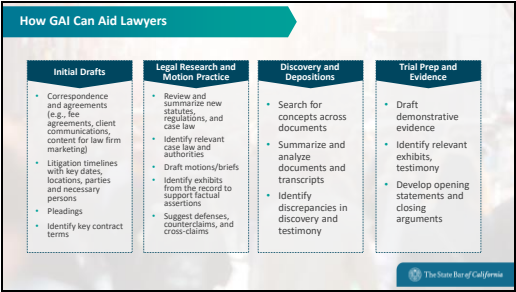

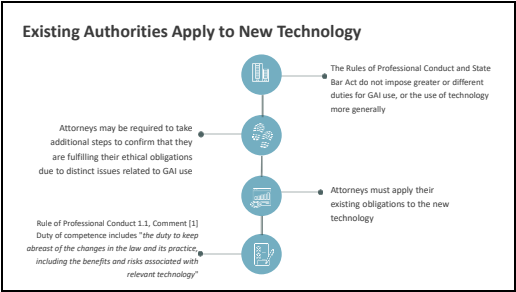
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	<b>Slide 5</b> 	<b>KEY CONCEPTS</b>  <b>AI:</b> Computer systems that can do things normally thought to require human intelligence  <b>GAI:</b> AI that can generate new content based on data it's been trained on  <b>LLM:</b> Type of GAI focused on processing and generating human language.	Lecture	Provide Definition of AI  Ask participants to reflect back on how many people responded to the first poll.  This helps to level set on technology.  Discuss why it's relevant to the practice of law.
	<b>Slide 6</b> 	<b>GENERATIVE AI TERMS TO KNOW</b>  GOF AI (Good Old-Fashioned Artificial Intelligence)  GenAI (Generative Artificial Intelligence)  LLM (Large Language Model)- ChatGPT  NLP (Natural Language Processing)  AGI (Artificial General Intelligence)  RAG (Retrieval-Augmented Generation)	Lecture	Review terms to know:  <b>GOF AI (Good Old-Fashioned Artificial Intelligence)</b> —a traditional approach to artificial intelligence that uses symbolic reasoning and formal logic to represent knowledge and solve problems)  <b>GenAI (Generative Artificial Intelligence)</b> —a type of artificial intelligence that can create new content, like text, images, videos, or audio, by analyzing patterns in large datasets and generating outputs that are similar to the data it was trained on)

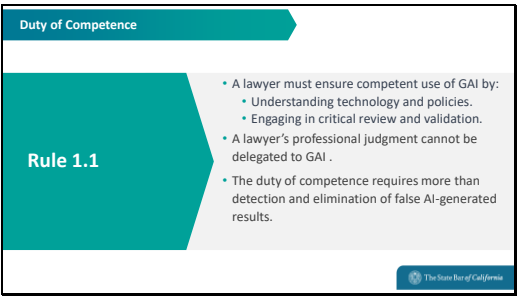
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		<p>ASI (Artificial Superintelligence)</p> <p>Fine Tuning</p> <p>Prompt/Output</p>		<p><b>LLM (Large Language Model)</b>—a type of artificial intelligence that uses deep learning to generate human-like text responses to queries. For example: ChatGPT)</p> <p><b>NLP (Natural Language Processing)</b>—a branch of artificial intelligence that allows computers to understand, generate, and manipulate human language.)</p> <p><b>AGI (Artificial General Intelligence)</b>—a hypothetical type of artificial intelligence that can mimic the human brain's cognitive abilities)</p> <p><b>RAG (Retrieval-Augmented Generation)</b>—technology that uses domain specific data)</p> <p><b>ASI (Artificial Superintelligence)</b>—AI system with intellect beyond human intelligence) and</p> <p><b>Fine Tuning</b> (Fine-tuning adjusts a pre-trained model's parameters to improve its performance on a specific task).</p>

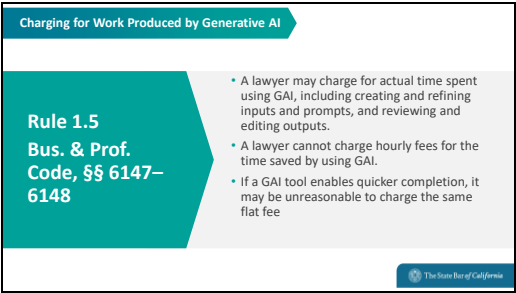
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				<p><b>Prompt</b> is a question or instruction given to a system (like AI) to get a response.</p> <p><b>Output</b> is the response or result generated by the system based on that prompt.</p>
	<p><b>Slide 7</b></p> 	<p><b>RETRIEVAL-AUGMENTED GENERATION (RAG)</b></p> <p>Retrieval-augmented generation is being promoted as the key technology for making LLMs effective in domain-specific contexts, like the practice of law.</p> <p>It allows general LLMs to make effective use of company- or domain-specific data and to produce more detailed and accurate answers by drawing directly from retrieved text.</p>	Lecture	<p>Discuss Retrieval-Augmented Generation, or RAG. This technology allows general LLMs to make effective use of domain-specific data, producing more detailed and accurate answers by drawing directly from retrieved text.</p> <p>Breakdown the RAG acronym:</p> <p>Retrieval: Instead of just relying on what the LLM learned during training, the model first searches a large database or knowledge base for relevant information. This could be anything that is included by the GAI product developer, or something that you upload.</p> <p>Augmented: After retrieving this information, the model enhances it. This means it takes the raw data it found and combines it with its own understanding to create a</p>

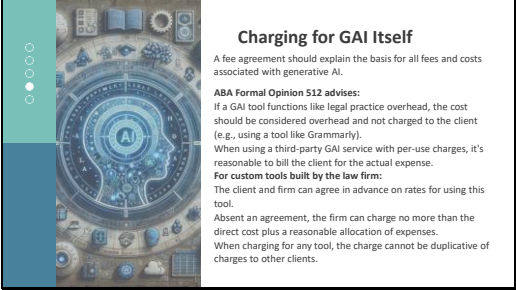
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				<p>more coherent and contextually relevant response.</p> <p>Generation: The model generates a response. By using both the retrieved information and its training, this approach, at least in theory allows for more accurate and context-specific responses.</p> <p>Provide an example: RAG systems are useful because the GAI product is focused on searching the law or law in a particular jurisdiction than searching the entire internet.</p>
	<b>Slide 8</b> 	<b>GENERAL PRODUCTS VS. LAW-SPECIFIC PRODUCTS</b>  <b>Not Developed for Lawyers</b> <ul style="list-style-type: none"> <li>• ChatGPT</li> <li>• Claude</li> <li>• Lllama</li> <li>• Gemini</li> </ul> <b>Law Specific Products</b> <ul style="list-style-type: none"> <li>• Lexis Nexis</li> <li>• Westlaw</li> <li>• Harvey</li> </ul>	Lecture	<p>Explain that general GAI products like ChatGPT, Gemini, or Claude are incredibly powerful, they weren't developed specifically for attorneys and may not be relying on relevant or accurate information.</p> <p>Specific GAI products include LexisNexis, Thomson Reuters, and Harvey, and are creating GAI tools tailored for legal professionals, utilizing RAG technology.</p>

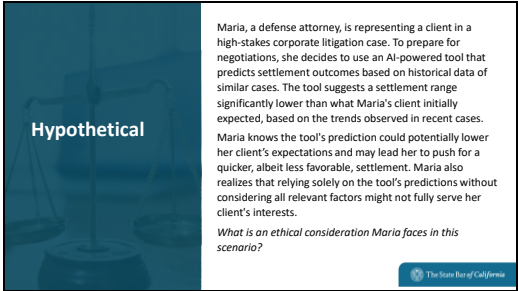


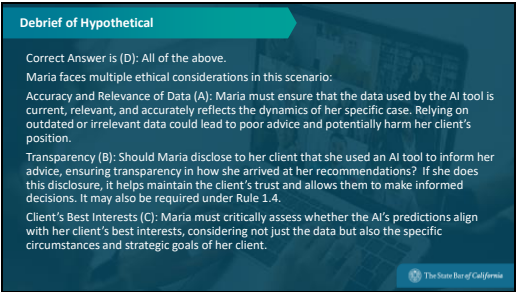
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15 mins	<b>Slide 9</b> 	<b>WHAT CAN GAI HELP WITHIN LEGAL PRACTICE</b>  Initial Drafts  Legal Research and Motion Practice  Discovery and Depositions  Trial Prep and Evidence	Lecture	Discuss use cases illustrated on the screen, highlighting uses for clients, the courts, and the business side of law.  Provide examples of how you or your law firm are using GAI in addition to those listed.
	<b>Slide 10</b> 	<b>THE RULES</b>  The Rules of Professional Conduct	Lecture	Highlight the State Bar's Committee on Professional Responsibility and Conduct (COPRAC), which is the Ethics Committee for the State Bar, guidelines for the use of GAI. The Practical Guidance was issued in November 2023.
	<b>Slide 11</b> 	<b>EXISTING AUTHORITIES APPLY TO NEW TECHNOLOGY</b>  The Rules of Professional Conduct and State Bar Act do not impose greater or different duties for generative AI use, or the use of technology more generally.	Lecture	Explain that COPRAC issued the Practical Guidance, which is an issues list, describing the applicable Rules of Professional Conduct that should be considered with GAI use.  The Practical Guidance explains that the Rules of Professional Conduct and State Bar Act do not impose greater or different duties for GAI use, or the use of technology more generally.

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		<p>Attorneys must apply their existing obligations to the new technology.</p> <p>Attorneys may be required to take additional steps to confirm that they are fulfilling their ethical obligations due to distinct issues related to GAI use.</p> <p>Rule of Professional Conduct 1.1, Comment [1] and the Duty of competence, which includes “the duty to keep abreast of the changes in the law and its practice, including the benefits and risks associated with relevant technology.”</p>		<p>The Practical Guidance is offered on the same webpage as COPRAC’s ethics opinions, and part of your written materials.</p> <p>COPRAC determined that, most importantly, attorneys need to think about competency.</p>
	<p><b>Slide 12</b></p> 	<p><b>DUTY OF COMPETENCE</b></p> <p><b>Rule 1.1</b></p> <p>A lawyer must ensure competent use of GAI by:</p> <p>Understanding technology and policies. Engaging in critical review and validation.</p> <p>A lawyer’s professional judgment cannot be delegated to GAI.</p>	Lecture	<p>Highlight key points:</p> <p>Understand GAI technology, limitations, and terms of use.</p> <p>Be aware of potential false, inaccurate, or biased GAI outputs.</p> <p>Use GAI outputs as starting points, not final products.</p> <p>Scrutinize and validate AI-generated content.</p>

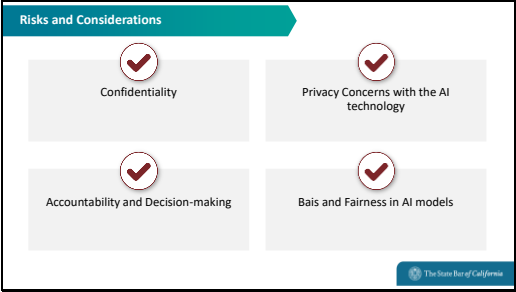
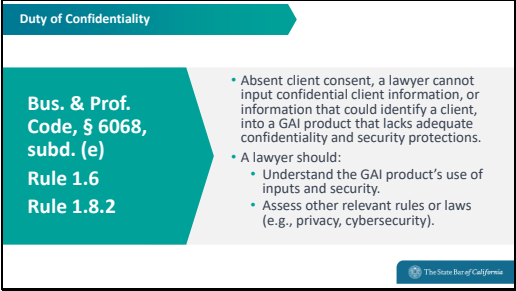
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		The duty of competence requires more than detection and elimination of false AI-generated results.		Supplement GAI work with human research and analysis.  Maintain professional judgment; don't over-rely on GAI.
	<b>Slide 13</b> 	<b>CHARGING FOR WORK PRODUCED BY GENERATIVE AI</b>  Rule 1.5 and Bus. & Prof. Code, §§ 6147–6148  A lawyer may charge for actual time spent using GAI, including creating and refining inputs and prompts, and reviewing and editing outputs.  A lawyer cannot charge hourly fees for the time saved by using GAI.  If a GAI tool enables more efficient completion, it may be unreasonable to charge the same flat fee. For example, if an attorney had previously calculated a flat fee partially based on time spent generating initial drafts of documents, the attorney may need to rethink the total amount of the flat fee, if the attorney now uses GAI to	Lecture	Discuss guidelines of charging for work.  Charge for actual time spent on GAI inputs/outputs.  Don't charge for time saved by GAI.  GAI costs can be charged to clients if compliant with law.  Clearly explain GAI-related fees and costs in agreements

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		generate initial drafts, instead of an associate whose time and hourly rate was calculated into the total flat fees for the case. For example, if it now takes a few minutes to generate initial drafts of commonly used documents in the case, instead of a few hours, the attorney should reconsider the total flat fee charged for the case.		
	<b>Slide 14</b>  <p><b>Charging for GAI Itself</b></p> <p>A fee agreement should explain the basis for all fees and costs associated with generative AI.</p> <p><b>ABA Formal Opinion 512 advises:</b></p> <p>If a GAI tool functions like legal practice overhead, the cost should be considered overhead and not charged to the client (e.g., using a tool like Grammarly).</p> <p>When using a third-party GAI service with per-use charges, it's reasonable to bill the client for the actual expense.</p> <p><b>For custom tools built by the law firm:</b></p> <p>The client and firm can agree in advance on rates for using this tool.</p> <p>Absent an agreement, the firm can charge no more than the direct cost plus a reasonable allocation of expenses.</p> <p>When charging for any tool, the charge cannot be duplicative of charges to other clients.</p>	<b>CHARGING FOR GENERATIVE AI ITSELF</b>  A fee agreement should explain the basis for all fees and costs associated with generative AI.  <b>ABA Formal Opinion 512 advises:</b>  If a GAI tool functions like legal practice overhead, the cost should be considered overhead and not charged to the client (e.g., using a tool like Grammarly).  When using a third-party GAI service with per-use charges,	Lecture	<p>Explain that at the end of July 2024, the American Bar Association issued its own guidance on lawyer use of GAI in ABA Formal Opinion 512.</p> <p>Overall, there are some differences between the ABA opinion and COPRAC's practical guidance, including more onerous obligations in the ABA opinion. However, the ABA opinion is helpful because it goes into more detail in key areas, like charging for work that uses GAI.</p>


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		<p>it's reasonable to bill the client for the actual expense.</p> <p><b>For custom tools built by the law firm:</b></p> <p>The client and firm can agree in advance on rates for using this tool.</p> <p>Absent an agreement, the firm can charge no more than the direct cost plus a reasonable allocation of expenses.</p> <p>When charging for any tool, the charge cannot be duplicative of charges to other clients.</p>		
	<p><b>Slide 15</b></p> 	<p><b>HYPOTHETICAL</b></p> <p>Maria, a defense attorney, is representing a client in a high-stakes corporate litigation case. To prepare for negotiations, she decides to use an AI-powered tool that predicts settlement outcomes based on historical data of similar cases. The tool suggests a settlement range significantly lower than what Maria's client initially expected, based on the</p>	Polling Question	<p>Launch Zoom poll or ask participants for a show of hands.</p> <p><i>Please note</i>—selections are not on the slide. If you are not using polling software edit the slide to include answer choices.</p> <p>What is an ethical consideration Maria faces in this scenario?</p> <p>A) Ensuring the AI tool's data is up-to-date and relevant to her client's case.</p>

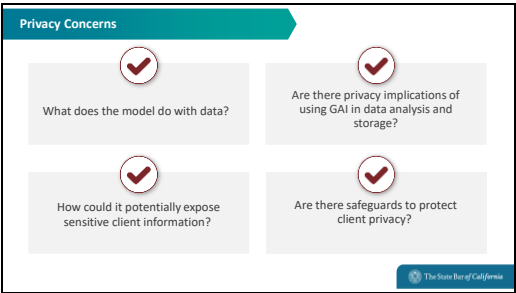
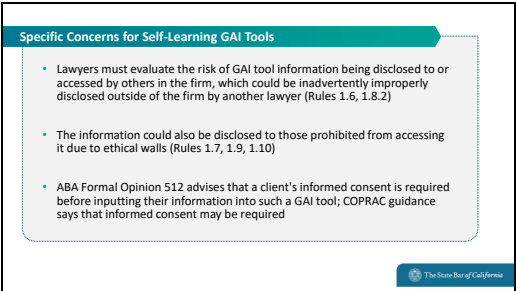
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		<p>trends observed in recent cases.</p> <p>Maria knows the tool's prediction could potentially lower her client's expectations and may lead her to push for a quicker, albeit less favorable, settlement. Maria also realizes that relying solely on the tool's predictions without considering all relevant factors might not fully serve her client's interests.</p> <p><i>What is an ethical consideration Maria faces in this scenario?</i></p>		<p>B) Deciding whether to inform her client about the source of her advice (the AI tool).</p> <p>C) Evaluating if the lower settlement range truly reflects her client's best interests.</p> <p>D) All of the above.</p>
	<p><b>Slide 16</b></p> 	<p><b>DEBRIEF OF HYPOTHETICAL</b></p> <p>Maria faces multiple ethical considerations in this scenario:</p> <p>Accuracy and Relevance of Data (A): Maria must ensure that the data used by the AI tool is current, relevant, and accurately reflects the dynamics of her specific case. Relying on outdated or irrelevant data could lead to</p>	Debrief Polling Question	<p>Correct Answer is (D): All of the above.</p> <p>Go through why all the choices are ethical considerations for Maria to consider.</p>

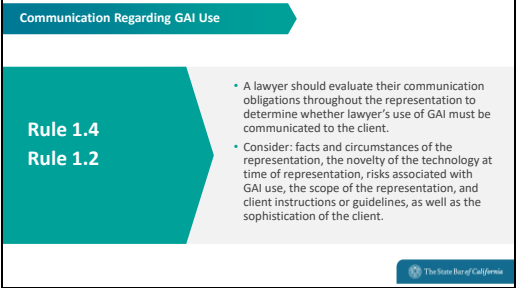
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		<p>poor advice and potentially harm her client's position.</p> <p>Transparency (B): Should Maria disclose to her client that she used an AI tool to inform her advice, ensuring transparency in how she arrived at her recommendations? If she does, this disclosure helps maintain the client's trust and allows them to make informed decisions. It may also be required under Rule 1.4.</p> <p>Client's Best Interests (C): Maria must critically assess whether the AI's predictions align with her client's best interests, considering not just the data but also the specific circumstances and strategic goals of her client.</p>		


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15 mins	<b>Slide 17</b> 	<b>RISKS AND CONSIDERATIONS</b>  Confidentiality  Privacy Concerns with the AI technology  Accountability and Decision-making  Bias and Fairness in AI Models	Lecture	Transition into the next section to discuss the risks and considerations with the use of AI.
	<b>Slide 18</b> 	<b>DUTY OF CONFIDENTIALITY</b>  Bus. & Prof. Code, § 6068, subd. (e), Rule 1.6, and Rule 1.8.2  Absent client consent, a lawyer cannot input confidential client information, or information that could identify a client, into a GAI product that lacks adequate confidentiality and security protections.  A lawyer should: Understand the GAI product's use of inputs and security. Assess other relevant rules or laws (e.g., privacy, cybersecurity).	Lecture	Highlight key risks including:  AI tools can use input data for training or share with third parties and potential breach of client confidentiality.  Guidelines:  Never input confidential information into unsecured AI tools.  Anonymize client information when using AI.  Consult IT/cybersecurity experts for AI systems handling confidential data.

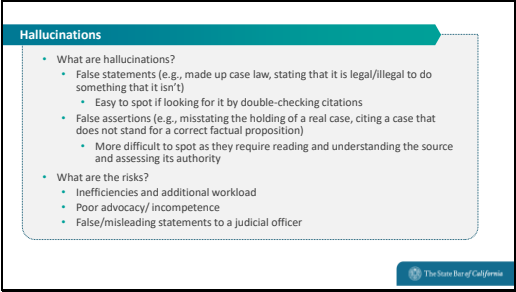



Time	Slide Number	Content	Teaching Method	Faculty Notes
	<p><b>Slide 19</b></p> <p><b>Outsourcing Legal/Nonlegal Services Through GAI</b></p> <p>ABA Formal Opinion 512 advises that lawyers should:</p> <ul style="list-style-type: none"> <li>• Ensure that the GAI tool is configured to preserve the confidentiality and security of information, that the obligation is enforceable, and that the lawyer will be notified in the event of a breach or service of process regarding production of client information;</li> <li>• Investigate the GAI tool's reliability, security measures, and policies, including limitations on the company's liability;</li> <li>• Determine whether the GAI tool retains information submitted by the lawyer before and after the discontinuation of services or asserts proprietary rights to the information; and</li> <li>• Understand the risk that GAI tool servers are subject to their own failures and may be an attractive target of cyber-attacks.</li> </ul> <p></p>	<p><b>OUTSOURCING LEGAL/NONLEGAL SERVICES THROUGH GAI</b></p> <p>ABA Formal Opinion 512 advises that lawyers should:</p> <p>Ensure that the GAI tool is configured to preserve the confidentiality and security of information, that the obligation is enforceable, and that the lawyer will be notified in the event of a breach or service of process regarding production of client information.</p> <p>Investigate the GAI tool's reliability, security measures, and policies, including limitations on the company's liability.</p> <p>Determine whether the GAI tool retains information submitted by the lawyer before and after the discontinuation of services or asserts proprietary rights to the information.</p>	Lecture	Discuss the main points in ABA Formal Opinion 512 that relate to confidentiality and attorney-client privilege.

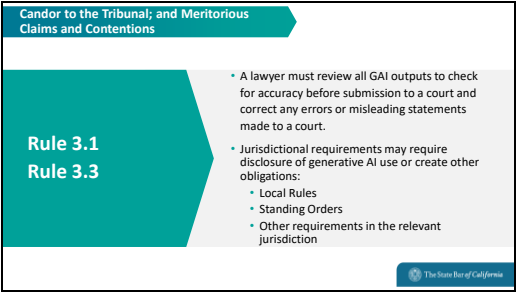
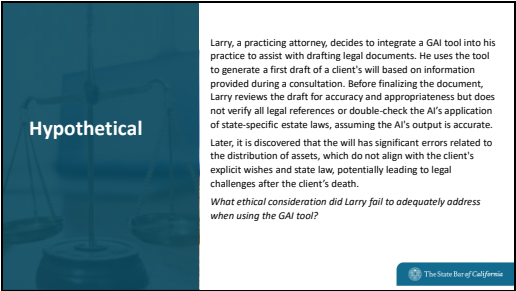
Time	Slide Number	Content	Teaching Method	Faculty Notes
		Understand the risk that GAI tool servers are subject to their own failures and may be an attractive target of cyber-attacks.		
	<b>Slide 20</b> 	<b>PRIVACY CONCERNS</b> <p>What does the model do with data?</p> <p>Are there privacy implications of using GAI in data analysis and storage?</p> <p>How could it potentially expose sensitive client information?</p> <p>Are there safeguards to protect client privacy?</p>	Lecture	<p>Tie this back to the duty of confidentiality and reiterate the importance of attorney GAI users understanding the product, its terms of use, and any additional agreements the attorney/law firm may have with the vendor.</p> <p>Questions on screen are a starting point.</p>
	<b>Slide 21</b> 	<b>SPECIFIC CONCERNS FOR SELF-LEARNING GAI TOOLS</b> <p>Lawyers must evaluate the risk of GAI tool information being disclosed to or accessed by others in the firm, which could be inadvertently improperly disclosed outside of the firm by another lawyer (Rules 1.6, 1.8.2).</p>	Lecture	<p>Inform the participants that there are specific risks for GAI tools that should be considered prior to using any GAI tool.</p>

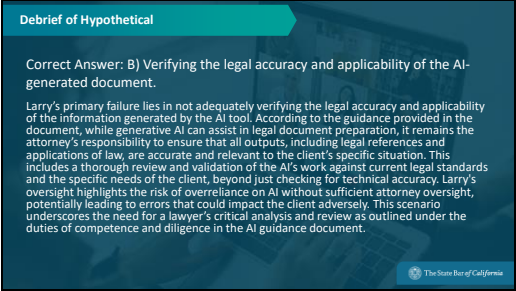
Time	Slide Number	Content	Teaching Method	Faculty Notes
		<p>The information could also be disclosed to those prohibited from accessing it due to ethical walls (Rules 1.7, 1.9, 1.10).</p> <p>ABA Formal Opinion 512 advises that a client's informed consent is required before inputting their information into such a GAI tool; COPRAC guidance says that informed consent may be required.</p>		
	<p><b>Slide 22</b></p> 	<p><b>COMMUNICATION REGARDING GAI USE</b></p> <p>Rule 1.4 and rule 1.2</p> <p>A lawyer should evaluate their communication obligations throughout the representation to determine whether lawyer's use of GAI must be communicated to the client.</p> <p>Consider: Facts and circumstances of the representation, the novelty of the technology at time of representation, risks associated with GAI use, the scope of the representation, and client instructions or</p>	Lecture	<p>Discuss duty of communication and whether there is a requirement to inform clients that you are using GAI. Note the difference between COPRAC guidance and ABA Formal Opinion 512.</p> <p>Ask participants to consider if they will disclose GAI use to clients and explain how GAI will be used, including benefits and risks.</p> <p>Review possibility that the client will have guidelines on AI use.</p>

Time	Slide Number	Content	Teaching Method	Faculty Notes
		guidelines, as well as the sophistication of the client.		
	<div><div>Slide 23</div><div><div><p>If Informed Written Consent Is Required, What Must It Include?</p></div><div><p>ABA Formal Opinion 512 says the client must have the lawyer’s best judgment about:</p><ul style="list-style-type: none"><li>• Why the GAI tool is being used;</li><li>• The extent of, and specific information about, the risk of GAI use, including particulars about:<ul style="list-style-type: none"><li>• the kinds of client information that will be disclosed,</li><li>• the ways in which others might use the information against the client’s interests,</li><li>• potential risk of later users having access to client’s information; and</li></ul></li><li>• The GAI tool’s benefits to the representation.</li></ul><p><i>Boiler-plate provisions to engagement letters purporting to authorize the lawyer to use GAI is not sufficient.</i></p><div></div></div></div></div>	<div><div><b>INFORMED WRITTEN CONSENT</b></div><div><p>ABA Formal Opinion 512 says the client must have the lawyer’s best judgment about: Why the GAI tool is being used;</p><p>The extent of, and specific information about, the risk of GAI use, including particulars about: The kinds of client information that will be disclosed; the ways in which others might use the information against the client’s interests; potential risk of later users having access to client’s information; and</p><p>the GAI tool’s benefits to the representation.</p><p>Boiler-plate provisions to engagement letters purporting to authorize the lawyer to use GAI is not sufficient.</p></div></div>	Lecture	Discuss the requirements of informed consent as discussed by ABA Formal Opinion 512 and explain differences from requirements in rule 1.4.

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	<p><b>Slide 24</b></p> 	<p><b>HALLUCINATIONS</b></p> <p>What are hallucinations?</p> <p>False statements (e.g., made up case law, stating that it is legal/illegal to do something that it isn't)</p> <p>Easy to spot if looking for it by double-checking citations.</p> <p>False assertions (e.g., misstating the holding of a real case, citing a case that does not stand for a correct factual proposition)</p> <p>More difficult to spot as they require reading and understanding the source and assessing its authority</p> <p>What are the risks?</p> <p>Inefficiencies and additional workload</p> <p>Poor advocacy/ incompetence</p> <p>False/misleading statements to a judicial officer</p>	Lecture	Discuss what hallucinations are and the various forms they can take. Emphasize that lawyers cannot over rely on the outputs and should closely verify all outputs.

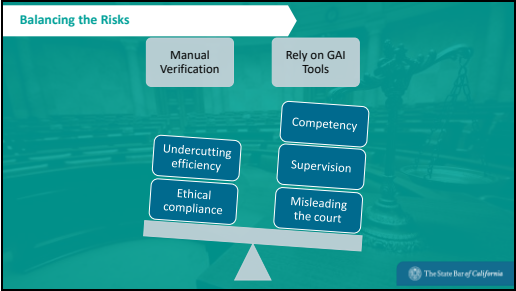

Time	Slide Number	Content	Teaching Method	Faculty Notes
	<p><b>Slide 25</b></p> <div> <p>Does RAG / Legal Specific Tools Solve Hallucination Concerns?</p> <ul style="list-style-type: none"> <li>Stanford says no. Commercially-available RAG-based legal research tools still hallucinate.</li> <li>In the Stanford study, over 1 in 6 of queries caused Lexis+ AI and Ask Practical Law AI (Thomson Reuters) to respond with misleading or false information. One-third of Westlaw's AI-Assisted Research (Thomson Reuters) contained a hallucination.</li> <li>Many of the hallucinations related to misunderstanding holdings, distinguishing between a party's argument and the court's holding, and the hierarchy of legal authorities.</li> <li>These systems are less prone to hallucination than GPT-4, but users of any GAI product must remain cautious about relying on their outputs.</li> </ul>  </div>	<p><b>LEGAL SPECIFIC TOOLS/HALLUCINATIONS</b></p> <p>Stanford says no. Commercially available RAG-based legal research tools still hallucinate.</p> <p>In a May 2024 Stanford study, over 1 in 6 of queries caused Lexis+ AI and Ask Practical Law AI (Thomson Reuters) to respond with misleading or false information. One-third of Westlaw's AI-Assisted Research (Thomson Reuters) contained a hallucination.</p> <p>Many of the hallucinations related to misunderstanding holdings, distinguishing between a party's argument and the court's holding, and the hierarchy of legal authorities.</p> <p>These systems are less prone to hallucination than GPT-4, but users of any GAI product must remain cautious about relying on their outputs.</p>	Lecture	<p>Highlight a recent Stanford study, which examined hallucinations by GAI products intended for lawyers that use Retrieval Augmented Generation. The study focused on Lexis+AI, Westlaw AI-Assisted Research, and Ask Practical Law. Stanford found that each hallucinated between 17 and 33 percent of the time. This suggests that although these products are better than general GAI products, they still should not be over relied upon.</p> <p>The Stanford study is titled <i>Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools</i> and can be found online-  <a href="https://dho.stanford.edu/wp-content/uploads/Legal_RAG_Hallucinations.pdf">https://dho.stanford.edu/wp-content/uploads/Legal_RAG_Hallucinations.pdf</a></p>


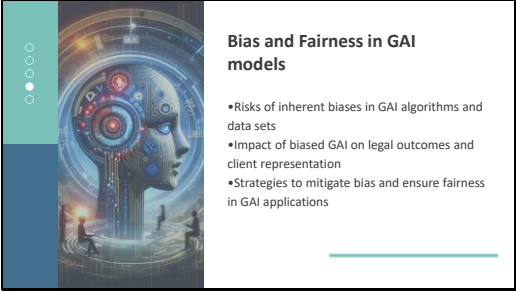
Time	Slide Number	Content	Teaching Method	Faculty Notes
	<b>Slide 26</b> 	<b>CANDOR TO THE TRIBUNAL AND MERITORIOUS CLAIMS AND CONTENTIONS</b>  Rule 3.1 and rule 3.3  A lawyer must review all GAI outputs to check for accuracy before submission to a court and correct any errors or misleading statements made to a court.  Jurisdictional requirements may require disclosure of generative AI use or create other obligations:  Local Rules  Standing Orders  Other requirements in the relevant jurisdiction	Lecture	Emphasize the duty of candor and that all AI outputs should be reviewed for accuracy before court submission.  Also implicates duty of competence.
	<b>Slide 27</b> 	<b>HYPOTHETICAL</b>  Larry, a practicing attorney, decides to integrate a GAI tool into his practice to assist with drafting legal documents. He uses the tool to generate a first draft of a client's will based on information provided during a consultation. Before finalizing	Polling Question	Launch Zoom poll or ask participants for a show of hands.  <i>Please note-</i> selections are not on the slide. If you are not using polling software edit the slide to include answer choices.

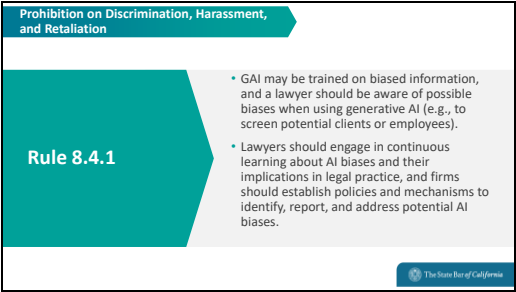
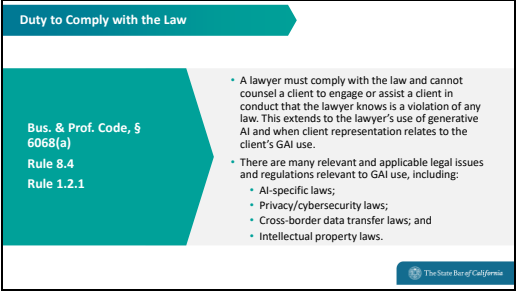
Time	Slide Number	Content	Teaching Method	Faculty Notes
		<p>the document, Larry reviews the draft for accuracy and appropriateness but does not verify all legal references or double-check the AI's application of state-specific estate laws, assuming the AI's output is accurate.</p> <p>Later, it is discovered that the will has significant errors related to the distribution of assets, which do not align with the client's explicit wishes and state law, potentially leading to legal challenges after the client's death.</p> <p>What ethical consideration did Larry fail to adequately address when using the GAI tool?</p>		<p>What ethical consideration did Larry fail to adequately address when using the generative AI tool?</p> <ul style="list-style-type: none"> <li>A) Ensuring the AI tool's outputs were free from technical errors.</li> <li>B) Verifying the legal accuracy and applicability of the AI-generated document.</li> <li>C) Maintaining confidentiality of the client's information used by the AI tool.</li> <li>D) Communicating the use of AI to the client and discussing potential risks.</li> </ul>
	<p><b>Slide 28</b></p> 	<p><b>DEBRIEF OF HYPOTHETICAL</b></p> <p>Correct Answer: B) Verifying the legal accuracy and applicability of the AI-generated document.</p> <p>Larry's primary failure lies in not adequately verifying the legal accuracy and applicability of the information generated</p>	<p>Polling Question Debrief</p>	<p>Correct Answer is (B): Verifying the legal accuracy and applicability of the AI-generated document.</p> <p>Explain why choice B is the correct answer.</p>




Time	Slide Number	Content	Teaching Method	Faculty Notes
		<p>by the AI tool. According to the guidance provided in the document, while generative AI can assist in legal document preparation, it remains the attorney's responsibility to ensure that all outputs, including legal references and applications of law, are accurate and relevant to the client's specific situation. This includes a thorough review and validation of the AI's work against current legal standards and the specific needs of the client, beyond just checking for technical accuracy. Larry's oversight highlights the risk of overreliance on AI without sufficient attorney oversight, potentially leading to errors that could impact the client adversely. This scenario underscores the need for a lawyer's critical analysis and review as outlined under the duties of competence and diligence in the AI guidance document.</p>		

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	<b>Slide 29</b> 	<b>BALANCING THE RISKS</b> Manual Verification Undercutting efficiency Ethical Compliance Rely on GAI Tools Competency Supervision Misleading the Court	Lecture	<p>Discuss balancing the risks- on one side the manual verification can undercut efficiency and is required for ethical compliance. On the other side, relying on GAI tools can create competency issues, supervision issues, and a risk of misleading the court.</p> <p>Remind attorneys that they will have to determine what makes sense for them in their practice when evaluating efficiencies and risks.</p>
10 mins	<b>Slide 30</b> 	<b>BEST PRACTICES FOR IMPLEMENTATION</b> Establish protocols and policies that include GAI governance frameworks and ethical guidelines to ensure responsible use. Conduct regular audits and ethical reviews, which are crucial to maintaining trust and compliance. Develop training for your lawyers and other law firm staff.	Lecture	<p>Discuss the best practices for implementing GAI solutions.</p> <p>Explain how you are implementing procedures related to implementation.</p>

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	<b>Slide 31</b> 	<b>DUTY TO SUPERVISE LAWYERS AND NON-LAWYERS</b>  Rules 5.1, 5.2, and 5.3.  Managerial and supervisory lawyers should establish clear GAI policies and provide training on the ethical and practical aspects and pitfalls of GAI use.  A subordinate lawyer cannot use GAI at the direction of a supervisory lawyer in a manner that violates the subordinate lawyer's professional responsibility obligations.	Lecture	All of the implementation steps just discussed relate back to the obligations for those in managerial or supervisory roles.  For managers/supervisors:  Establish clear policies on GAI use.  Ensure firm-wide compliance with professional obligations.  Provide training on ethical and practical aspects of AI use.  For subordinate lawyers:  Don't use AI in ways that violate professional responsibilities.
	<b>Slide 32</b> 	<b>BIAS AND FAIRNESS IN GAI MODELS</b>  Risks of inherent biases in GAI algorithms and data sets.  Impact of biased GAI on legal outcomes and client representation.  Strategies to mitigate bias and ensure fairness in GAI applications.	Lecture	Explain that this is one of the unintended consequences of GAI. When using the tools, incorporate methods for auditing AI tools for bias and discuss the role of continuous monitoring to ensure fairness. This includes guidelines for data handling, model training, and accountability measures.

Time	Slide Number	Content	Teaching Method	Faculty Notes
	<p><b>Slide 33</b></p> 	<p><b>PROHIBITION ON DISCRIMINATION, HARASSMENT, AND RETALIATION</b></p> <p>Rule 8.4.1</p> <p>GAI may be trained on biased information, and a lawyer should be aware of possible biases when using generative AI (e.g., to screen potential clients or employees).</p> <p>Lawyers should engage in continuous learning about AI biases and their implications in legal practice, and firms should establish policies and mechanisms to identify, report, and address potential AI biases.</p>	Lecture	<p>Discuss that lawyers should engage in continuous learning about AI biases and their implications in legal practice, and firms should establish policies and mechanisms to identify, report, and address potential AI biases.</p> <p>Best practices: Exercise caution when using AI for screening clients or employees.</p> <p>Engage in continuous learning about AI biases and their implications.</p> <p>Establish policies to identify, report, and address potential AI biases.</p>
	<p><b>Slide 34</b></p> 	<p><b>DUTY TO COMPLY WITH THE LAW</b></p> <p>Bus. &amp; Prof. Code, § 6068(a), Rules 8.4 and 1.2.1</p> <p>A lawyer must comply with the law and cannot counsel a client to engage or assist a client in conduct that the lawyer knows is a violation of any law. This</p>	Lecture	<p>Explain that Attorneys have a duty to comply with the law and cannot counsel or assist a client in conduct that the attorney knows violates any law, rule, or ruling of a tribunal.</p> <p>Highlight the duty to analyze and comply with all relevant laws when using AI.</p>

Time	Slide Number	Content	Teaching Method	Faculty Notes
		<p>extends to the lawyer's use of generative AI and when client representation relates to the client's GAI use.</p> <p>There are many relevant and applicable legal issues and regulations relevant to GAI use, including:</p> <p>AI-specific laws;</p> <p>Privacy/cybersecurity laws;</p> <p>Cross-border data transfer laws; and</p> <p>Intellectual property laws.</p>		
	<p><b>Slide 35</b></p> 	<p><b>PROFESSIONAL RESPONSIBILITIES OWED TO OTHER JURISDICTIONS</b></p> <p>Rule 8.5</p> <p>A lawyer must analyze relevant laws and regulations in other jurisdictions in which they are licensed or authorized to practice.</p>	Lecture	Discuss that the materials today are applicable to California. If you are licensed in another jurisdiction or practicing in a federal court, you need to make sure that your usage conforms to that jurisdiction's requirements.

Time	Slide Number	Content	Teaching Method	Faculty Notes
5 mins	<b>Slide 36</b> <p>THANK YOU FOR ATTENDING!</p> <ul style="list-style-type: none"> <li>• Questions?</li> <li>• Resources are available at the State Bar's ethics and technology webpage.</li> </ul> <p>The State Bar of California</p>	<b>THANK YOU FOR ATTENDING</b>	Lecture	<p>Acknowledge that the course covered a lot of ground, and this is a space that is rapidly evolving.</p> <p>Thank the attendees for participating and learning more about generative AI and the practice of law. Encourage participants to visit the State Bar website for ethics resources, including COPRAC's Practical Guidance on the Responsible Use of GAI.</p>
	<b>Slide 37</b> <p>Instructions to Receive MCLE credit</p> <ul style="list-style-type: none"> <li>• [Include how you will verify attendance]</li> <li>• [Additional Instructions for Receiving MCLE Credit]</li> <li>• [You must sign in to receive MCLE credit.]</li> <li>• [After we have verified your attendance, we will send you an email containing links to the MCLE certificate, written materials, PDF of the PowerPoint presentation, and the MCLE program evaluation form. This may take up to 3 business days.]</li> </ul>	<b>INSTRUCTIONS TO RECEIVE MCLE CREDIT</b>	Lecture	<p>Provide instructions to receive MCLE credit certificate and ask participants to complete the survey about the program.</p>