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AI's Evolution and the Essential Role of AI Literacy

by Tim Nielsen and Romaine Marshall

AI is the most revolutionary technology in decades. According to Bill Gates: “The development of AI is as fundamental as the creation of the microprocessor, the personal computer, the Internet, and the mobile phone. Entire industries will reorient around it. Businesses will distinguish themselves by how well they use it.” Bill Gates, *Here's What the Age of AI Means for the World, According to Bill Gates*, WORLD ECON. FORUM (Mar. 28, 2023), <https://www.weforum.org/stories/2023/03/heres-what-the-age-of-ai-means-for-the-world-according-to-bill-gates/>.

But how? When responding to a recent question about advice he'd give to a high school student about AI and how to prepare for the future, one noted historian said, “this is the first time in history nobody has any idea what the world will look like in ten years.” Opinion, *Where is A.I. Taking Us?: Eight Leading Thinkers Share Their Visions*, N.Y. TIMES (Feb. 2, 2026) (quoting historian Yuval Noah Harari). This reminds us of well-known futurist Arthur C. Clarke's declaration in 1964 that “the only thing we can be sure of about the future is that it will be absolutely fantastic.” Real Time 1960s, *Sept. 21, 1964: Arthur C. Clarke Predicts the Future*, YOUTUBE (Aug. 12, 2024), <https://www.youtube.com/watch?v=y4nh2v3SmgQ>. Mr. Clarke went on to say, “[o]nly if what I tell you appears absolutely unbelievable have we any chance of visualizing the future as it really will happen.” *Id.*

Indeed, the first month of this year alone was unbelievable. Around the time this article was submitted, a major IT services platform company was forced to disclose vulnerabilities that enabled unauthenticated users to access, modify, or delete sensitive data belonging to its users, potentially impacting tens of thousands of corporate clients. Also, Moltbook, a social network tool for AI agents, was launched and already causing chaos and confusion.

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AI's importance was emphasized last July when the White House released America's AI Action Plan declaring “America must have the most powerful AI systems in the world.” EXEC. OFFICE OF THE PRESIDENT OF THE UNITED STATES: WINNING THE RACE, AMERICA'S AI ACTION PLAN (July 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf>. The Plan emphasizes deregulation and comes on the heels of several first-of-their-kind laws enacted by states that aim to balance regulation with AI innovation. *See id.*

In a nutshell, the Plan underscores the importance of AI alignment, ensuring that AI systems are developed, used and maintained in accordance with America's values and goals, and the central role of AI governance – the growing combination of principles, laws and regulations, policies and procedures, and best practices incorporated across AI design, development and deployment. *America's AI Action Plan is a “National Security Imperative,”* POLSINELLI (July 29, 2025), <https://polsinelli.gjassets.com/content/uploads/pdf/americas-ai-action-plan-is-a-national-security-imperative.pdf>.

Today, AI has become so ubiquitous that it is part of the unseen substructure of almost everything we do and eventually we won't even know it is there, analysts predict. A recent Gallup Poll survey found that 99% of Americans use AI every week, but nearly two-thirds (64%) don't realize it. Elyn Maese, *Americans Use AI in Everyday Products Without Realizing It*, GALLUP (Jan. 14, 2025), <https://news.gallup.com/poll/654905/americans-everyday-products-without-realizing.aspx>.

Utah's AI Policy Act – Effective May 2024

Utah lawyers and the Utah legislature have been mindful of AI for several years. In the September/October 2023 edition of this Journal we speculated that due to Utah's progressive stance on

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data innovation, privacy, and security legislation, AI legislation was probably on the horizon. Romaine Marshall & Gregory Cohen, *Artificial Intelligence Applications and the Rules of Prof. Conduct*, 36 UTAH B.J. 18, 18–21 (Sept./Oct. 2023).

Even so, it was a surprise when only six months later in May 2024 Utah’s legislature passed a first-of-its-kind AI statute relating to consumer protection. The Utah Artificial Intelligence Policy Act (UAIPA) became effective immediately and aims to simultaneously increase consumer protections and encourage responsible AI innovation by:

- Mandating transparency through consumer disclosure requirements;
- Clarifying liability for AI business operations, including key terms and legal defenses; and
- Enabling innovation through a regulatory sandbox for responsible AI development, regulatory mitigation agreements (RMAs) and policy and rulemaking by a newly created Office of Artificial Intelligence Policy (OAIP).

See generally <https://le.utah.gov/~2024/bills/sbillenr/SB0149.pdf> (last visited Sept. 29, 2025).

While not quite a safe harbor from all liability, RMAs provide AI developers, deployers and users of AI with an opportunity to test for unintended consequences in a somewhat controlled environment. Last December, the OAIP announced that it had executed its first RMA with ElizaChat, an app schools can offer teens for their mental health. *Agreement Between the Office of Artificial Intelligence Policy, ElizaChat Inc., and the Division of Professional Licensing*, <https://ai.utah.gov/wp-content/uploads/Signed-Elizachat-Agreement-November-2024.pdf> (last visited Sept. 29, 2025).

The twelve-page RMA with ElizaChat is notable for its multiple references to schedules. Included in Schedule A under the subheading “Mitigation Offered,” are detailed requirements the ElizaChat app must meet, including a Testing Plan and notification obligations should certain incidents occur. In May, the OAIP executed an RMA with Dentacor, for AI-assisted diagnosis and treatment by mobile dental hygienists. *See id.*


As to AI liability, the UAIPA specifies and clarifies that businesses cannot blame AI for any statutory offenses. The fact that AI “made the violative statement, undertook the violative act, or was used in furtherance of the violation” is irrelevant and cannot be used as a legal defense. Utah Code Ann. § 13-2-12(2). The UAIPA also contemplates the creation of AI cybersecurity standards through the OAIP and establishes a Learning Lab through which businesses can partner with the OAIP to responsibly develop and test AI solutions.

In this way, the UAIPA sets the stage for a new era of AI regulation by being the first state law to embed cross-functional learning opportunities for future rules and regulation. *Id.* §13-72-201.

In January 2026, the OAIP entered into an RMA with Doctronic, a health care technology company, to streamline the prescription refill process. *Doctronic AI Regulatory Mitigation Agreement*, UTAH OFF. OF ARTIFICIAL INTELLIGENCE POL’Y, <https://commerce.utah.gov/ai/agreements/doctronic/> (last visited Feb. 4, 2026). Touted by OAIP as an emerging model that could reshape access to care and ultimately improve healthcare outcomes, the RMA with Doctronic will last twelve months. *Draft Agreement Between the Office of Artificial Intelligence Policy, Doctronic, LLC, and the Division of Professional Licensing*, UTAH OFF. OF ARTIFICIAL INTELLIGENCE POL’Y, (Oct. 24, 2025), <https://commerce.utah.gov/wp-content/uploads/2026/01/Doctronic-Final-Agreement.pdf>. It is twenty-four pages long, with six pages dedicated to agreement terms and eighteen pages comprising various schedules that include a plan and protocols, use case descriptions, applicable standards of care, workflows, and a list of 192 medications covered by the RMA. *See id.*


UAIPA Amendments – Effective March 2025

In April 2025, the OAIP released findings and guidance for the mental health industry that were adopted by the legislature as amendments to the UAIPA. *Learning Agenda Mental Health*



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Outcomes, UTAH OFF. OF ARTIFICIAL INTELLIGENCE POL'Y, <https://ai.utah.gov/learning-agenda-mental-health-outcomes/> (last visited Feb. 10, 2026). The guidance comprises fifty-four pages, the first forty of which describe potential benefits and important risks associated with AI. It then examines use cases of AI in mental health therapy, especially in relation to inaccurate AI outputs, and sets forth best practices across these categories:

1. Informed consent;
2. Disclosure;
3. Data privacy and safety;
4. Competence;
5. Patient needs; and
6. Continuous monitoring and reassessment.

Competence is emphasized. For example, the guidance states that therapists must maintain a high level of competence, which “involves continuous education and training to understand these AI technologies’ capabilities, limitations, and proper use.” *Id.* This is consistent with how the UAIPA specifies that businesses cannot blame AI for errors and violations. Utah Code Ann. § 13-2-12. If an emphasis on competence resonates or sounds familiar, that could be due to guidance issued by the Utah Bar in May 2023:

Check “your” work! Under rule 1.1, we have a duty to provide “competent representation” to our clients. And under rule 5.3, we have a duty to supervise nonlawyer assistance, including services like AI. Together, these rules require that we ensure any services we use – including AI – are compatible with our professional obligations, including our duty of competence.

Using ChatGPT in Our Practices: Ethical Considerations, UTAH BAR, <https://www.utahbar.org/wp-content/uploads/2023/05/ChatGPT-article.pdf> (last visited Sept. 29, 2025).

Indeed, MIT’s AI risk repository has processed 5,433 incident reports, and a database tracking legal decisions in cases where AI produced hallucinated content, such as fake citations and legal arguments, identified more than 878 cases when this article was submitted. *AI Hallucination Cases*, DAMIEN CHARLOTIN, <https://www.damiencharlotin.com/hallucinations/> (last visited February 2, 2026). Guidance from the OAIP, however, also includes something deeper. It requires that mental health therapists know “how frequently and under what circumstances one should expect the AI tool to produce inaccurate or undesirable outputs,” thus creating a duty of care not only for AI system developers and deployers but also users. *Two New AI Laws, Two Different Directions (For Now)*.

Also, through its emphasis on continuous monitoring and reassessment, the guidance states that therapists, “to the best of their abilities,” should regularly and critically challenge AI outputs for inaccuracies and biases and intervene promptly if the AI produces incorrect, incomplete or inappropriate content or recommendations. *Using ChatGPT in Our Practices: Ethical Considerations*, UTAH BAR, <https://www.utahbar.org/wp-content/uploads/2023/05/ChatGPT-article.pdf> (last visited Sept. 29, 2025). Altogether, the guidance refers to these as “digital literacy” requirements. *Best Practices for the Use of Artificial Intelligence by Mental Health Therapists*, UTAH DEPT. OF COM., <https://ai.utah.gov/wp-content/uploads/Best-Practices-Mental-Health-Therapists.pdf> (last visited Dec. 1, 2025). Last year, Colorado passed a law very similar to the UAIPA, the Colorado AI Act, Colo. Rev. Stat. Ann. § 6-1-1701 to 1707, and in June this year, Texas passed the Texas Responsible AI Governance Act. <https://capitol.texas.gov/tlodocs/89R/billtext/html/HB00149F.htm>. Colorado’s law has been delayed until June 2026, but Texas’ law will go into effect in February. Both laws include AI literacy requirements.

When this article was submitted, the Utah Legislature was considering a Utah Bill to enact the AI Transparency Act.¹ The proposed law would require AI companies to create and publish public safety and child protection plans, requires various publication requirements for frontier models, and contemplates a public safety plan for catastrophic risks, among other things that would be another first of its kind AI laws in the country.

The Emergence of AI Literacy as a Legal Requirement

As it did in 2018 with data privacy and the General Data Protection Regulation, the European Union (EU) is leading the way in legislating AI with the formal adoption last year of the EU AI Act, which it spent seven years constructing. *The European Union has Assigned your AI Some Homework*, POLSINELLI (Apr. 15, 2024), <https://www.polsinelli.com/publications/the-european-union-has-assigned-your-ai-some-homework>. It is comprehensive with 113 articles, 180 recitals, and thirteen annexes, totaling about 150 pages. Where the EU AI Act is instructive is Article 4 which mandates AI literacy:

Providers and deployers of AI systems shall take measures to ensure, to their best extent, a sufficient level of AI literacy of their staff and other persons dealing with the operation and use of AI systems on their behalf, taking into account their technical knowledge, experience, education and training and the context the AI systems are to be used in, and considering the persons or groups of persons on whom the AI systems are to be used.

Chloe Autio et al., *Artificial Intelligence Risk Management Framework: Generative Artificial Intelligence Profile*, NAT'L INST. SCI. & TECH. (July 26, 2024), <https://www.nist.gov/publications/artificial-intelligence-risk-management-framework-generative-artificial-intelligence>.

AI literacy is also a fundamental principle of the White House's AI Action Plan, which states:

To continue delivering on this vision [Winning the Race], the Trump Administration will advance a priority set of actions to expand AI literacy and skills development, continuously evaluate AI's impact on the labor market, and pilot new innovations to rapidly retrain and help workers thrive in an AI-driven economy.

EXEC. OFFICE OF THE PRESIDENT OF THE UNITED STATES: WINNING THE RACE, AMERICA'S AI ACTION PLAN 6 (July 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf>.

Indeed, the Plan recommends that the Department of the Treasury issue guidance that "many AI literacy and AI skilled development programs" qualify for special treatment including "tax-free reimbursement" for AI-related training and oversight

in the private sector. *Id.* Already, the market has responded with large and small programs now available. *See, e.g., Generative AI for Beginners v.3*, MICROSOFT GIT HUB, <https://microsoft.github.io/generative-ai-for-beginners/#/> (last visited Dec. 2, 2025); *Ascend AI Training*, ASCEND AI LABS, <https://risk-and-literacy.ascendlabsai.com/> (last visited Dec. 2, 2025).

The need for AI literacy, because AI "can act in ways unexpected to even their own creators," has been well known since March 2023 when ChatGPT announced that during a nine-hour window, it was possible for some users "to see other user's first and last name, email address, payment address, the last four digits (only) of a credit card number, and credit card expiration date." *March 20 ChatGPT Outage: Here's What Happened*, OPENAI (Mar. 24, 2023) <https://openai.com/index/march-20-chatgpt-outage/>.

Also in March 2023, the National Institute of Standards and Technology (NIST) updated a framework designed to address AI risks (AI RMF). *AI Risk Management Framework*, NAT'L INST. SCI. & TECH, <https://www.nist.gov/itl/ai-risk-management-framework> (last visited Dec. 2, 2025). As a voluntary guide, the AI RMF is intended to be flexible and "adapt to the AI landscape as technologies continue to develop" and "augment existing risk practices which should align with applicable laws, regulations, and

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norms.” *Artificial Intell. Risk Mngmt. Framework* at 2, NAT’L INST. SCI. & TECH (Jan. 2023), <https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-1.pdf>. It is incorporated in the Colorado AI Act as a safe harbor for organizations that implement it in their risk management policies and programs.

Almost two years ago, NIST released the Generative Artificial Intelligence Profile (Profile) as a companion to the AI RMF. *Artificial Intelligence Risk Management Framework: Generative Artificial Intelligence Profile*, NAT’L INST. SCI. & TECH, <https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.600-1.pdf> (July 2024). The Profile identifies twelve risks posed by Generative AI including several that are novel or expected to be exacerbated by GAI. *See id.* Some of the risks are expected, like those associated with data privacy and security, and the misuse of intellectual property. *See id.* at 4. But six of the twelve risks are exotic and new and will require AI literacy to effectively manage:

- **Confabulation:** The production of confidently stated but erroneous or false content (known colloquially as “hallucinations”) by which users may be misled or deceived.
- **Dangerous, Violent, or Hateful Content:** Eased production of and access to violent, inciting, radicalizing, or threatening content.

- **Harmful Bias or Homogenization:** Amplification and exacerbation of historical, societal, and systemic biases.
- **Human-AI Configuration:** Arrangements of or interactions between a human and an AI system which can result in automation bias, over-reliance, or emotional entanglement.
- **Information Integrity:** Lowered barrier to entry to generate and support the exchange and consumption of content which may not distinguish fact from opinion or fiction.
- **Obscene, Degrading, and/or Abusive Content:** Eased production of and access which can cause harm, including abuse material and nonconsensual intimate imagery.

Id. at 4–5.

Although these risks were identified in the context of Generative AI only a year ago, the speed of AI advancements is expanding the AI threat landscape into new and unknown territories. These were explained in *Situational Awareness: The Decade Ahead*, a paper released in June 2024, which states:

More generally, everything will just start happening *incredibly fast*. And the world will start going insane . . . By the end of it, superintelligent AI systems will be running our military and economy. During all of this insanity, we’d have extremely scare time to make the right decisions. The challenges will be immense. It will take everything we’ve got to make it through in one piece.

Leopold Aschenbrenner, *Situational Awareness: The Decade Ahead* (June 2024), <https://situational-awareness.ai/>.

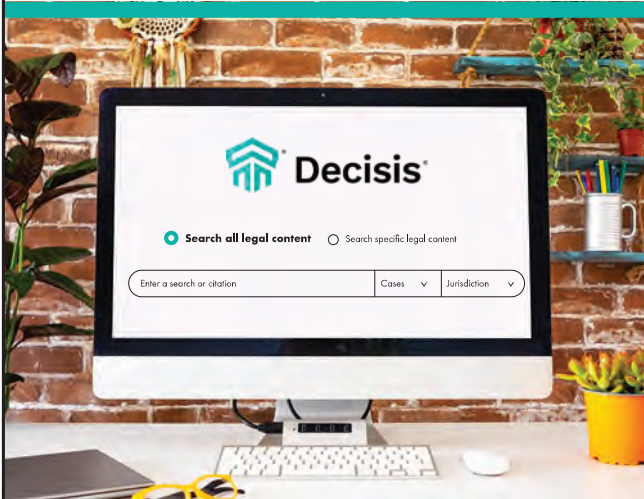
The author, Leopold Aschenbrenner, explains why he believes AI machines that can think and reason will outpace college graduates by 2025/2026, now essentially, and how “it is strikingly plausible that by 2027, models will be able to do the work of an AI researcher/engineer” leading to advancements in an “order of magnitude” never seen. *Id.* Recent evidence suggests this timeline is conservative.



AI Agents are here

AI agents – systems that can autonomously achieve goals with little to no explicit instruction about how to do it – is an iteration of AI technology with more capabilities than the AI chatbots that became mainstream with the release of ChatGPT on November 30, 2022. While just like chatbots, agents currently have reliability and other challenges, they are getting better and better, due in part to their ability to automate AI research themselves.

Put another way, AI agents can be trained to process information

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and then come up with new questions or ideas, implement experiments to test those ideas, interpret the results, and modify and repeat the process. They can do it over and over again, at previously unscalable levels given advancements and investments in computing power. Of course, this is leading to yet more new risks, including studies that show AI agents are learning to resist human instructions and even refusing to be turned off. Jeremy Schlatter et al., *Shutdown Resistance in Large Language Models*, ARXIV (Sept. 2025), https://arxiv.org/html/2509.14260v1?utm_source=chatgpt.com. Here again, stressing the importance of AI literacy for humans.

When it comes to AI literacy, there are numerous great resources. In addition to NIST, several of the main AI frontier models offer free resources, including Anthropic,² OpenAI,³ Microsoft,⁴ and Google,⁵ and numerous non-profit organizations do also including the Center for Information Policy,⁶ MIT,⁷ and Stanford.⁸ For an excellent curated list of resources, see those created by Kevin Fumai, Associate General Counsel at Oracle.⁹

When deciding to develop, deploy, or use AI, time and resources should be allocated to learning and understanding the extent to which AI has capabilities that can help or hinder the provision of legal advice. A starting point could include asking these basic questions for these five factors:

1. **Tool:** What is the AI tool?
2. **Use:** What is the use case or issue? Where does it fit in your workflow?
3. **Data:** What is the data going into it? What are its limits?

4. **Output:** What are the outputs or actions?
5. **Accuracy:** How accurate is it? How will you monitor for errors?

As answers to these basic questions evolve, and the patchwork of AI laws, enforcement trends, and industry guidance continue to develop, lawyers can then focus on developing AI risk management strategies. Whether you are an AI accelerationist or doomsdayer, there is no denying the world is changing at a head spinning pace. Lawyers that embrace AI literacy will be catalysts for the type of change necessary to serve clients well.

1. <https://le.utah.gov/Session/2026/bills/static/HB0286.html> (last visited Feb. 3, 2026).
2. *AI Fluency: Framework & Foundation*, ANTHROPIC ACADEMY, <https://www.anthropic.com/ai-fluency/overview?via=free> (last visited Dec. 2, 2025).
3. OPENAIACADEMY, <https://academy.openai.com/> (last visited Dec. 2, 2025).
4. *AI Learning Hub*, MICROSOFT LEARN, <https://learn.microsoft.com/en-us/ai/?tabs=developer> (last visited Dec. 2, 2025).
5. *You Don't Need a PhD to Learn AI: 16 Free Courses That Make It Simple*, COURSYA, <https://coursya.com/free-courses/you-dont-need-a-phd-to-learn-ai-16-free-courses-that-make-it-simple/> (May 4, 2025).
6. *AI Act Article 4: AI Literacy Best Practices and Recommendations for Practitioners*, CENTRE FOR INFO. POLICY LEADERSHIP, https://www.informationpolicy-centre.com/uploads/5/7/1/0/57104281/cipl_ai_literacy_best_practices_may25.pdf (May 2025).
7. Katherine Ouellette, *Launch Your AI Career with MIT's Online Courses*, MIT OPEN LEARNING (Aug. 13, 2025), <https://openlearning.mit.edu/news/launch-your-ai-career-mits-online-courses>.
8. *Free Resources for Students Interest in the AI Courses*, STANFORD ONLINE, https://docs.google.com/document/d/1OQk1QpGXUjAmGw_ROET-Zrgtj2ZhtFrYoiewQe4qL/edit?pli=1&tab=t.0 (last visited Feb. 4, 2026); see, e.g., *Stanford Institute for Human-Centered Artificial Intelligence*, STANFORD ONLINE, <https://online.stanford.edu/courses/xfin100-generative-ai-technology-business-and-society-program-preview> (last visited Dec. 2, 2025).
9. Kevin Fumai, LINKEDIN (June 2025), https://www.linkedin.com/posts/kevinfumai_ai-governance-resource-repositoryv2-activity-7327678436972412931-wdja/.

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