



INSURANCE COVERAGE AND ALLOCATION ISSUES CONFERENCE

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ARTIFICIAL INTELLIGENCE



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What Is Artificial Intelligence (AI)?

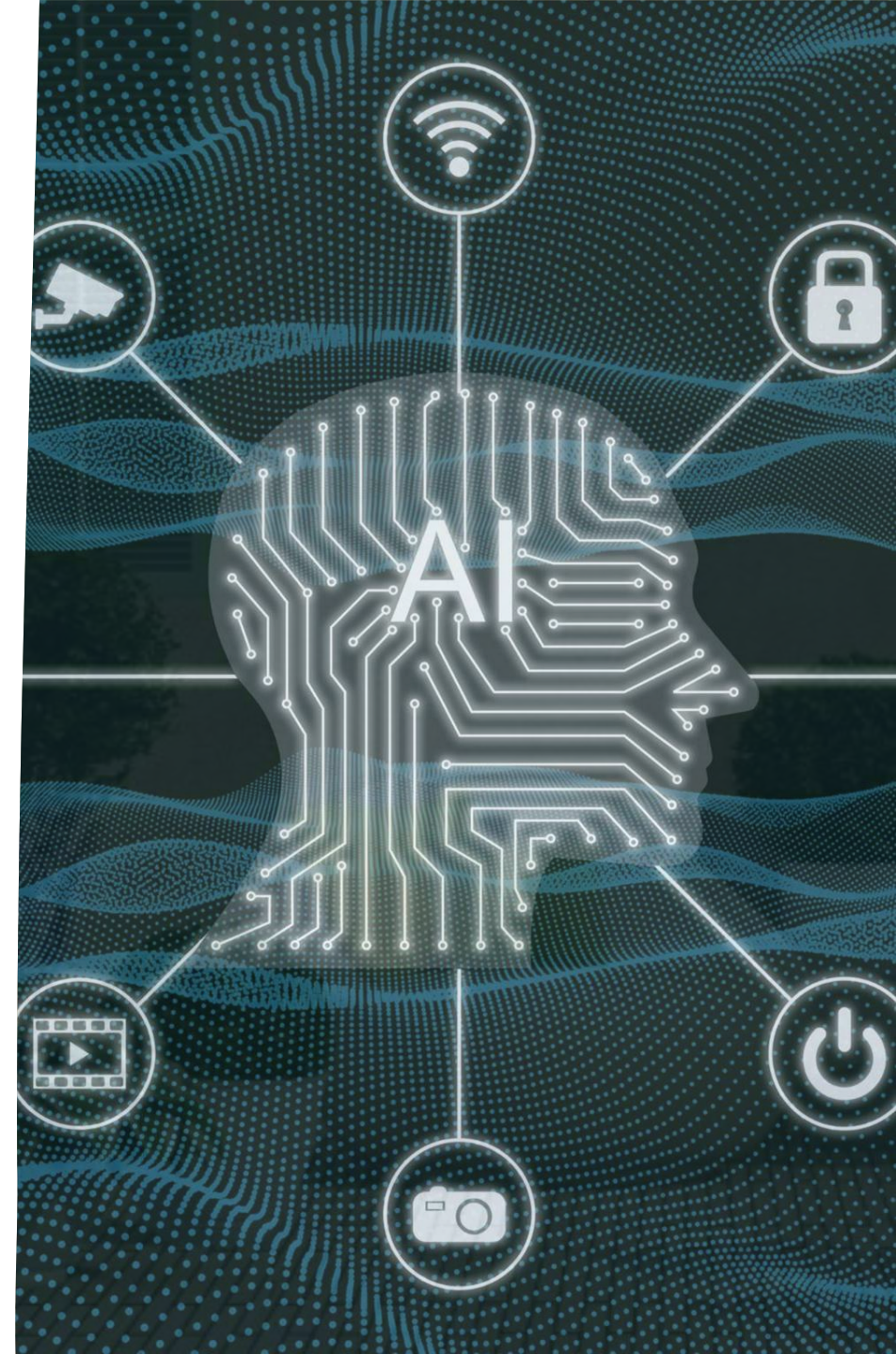
Definition and Functions

AI consists of machine systems *simulating* tasks like learning, reasoning, pattern recognition, and decision-making typically done by humans.

Capability and Scope

- **Narrow (Weak) AI:** Performs limited tasks (e.g. Chat GPT, autonomous driving, data scrubbing).
- **General AI:** Theoretical form of AI that would match human intelligence, and would allow the AI to learn and reason across diverse subject matter.
- **Superior AI:** Hypothetical AI that far surpasses human cognitive ability.

ALL AI IS WEAK AI



Artificial Intelligence – Technology and Models

Machine Learning / Deep Learning

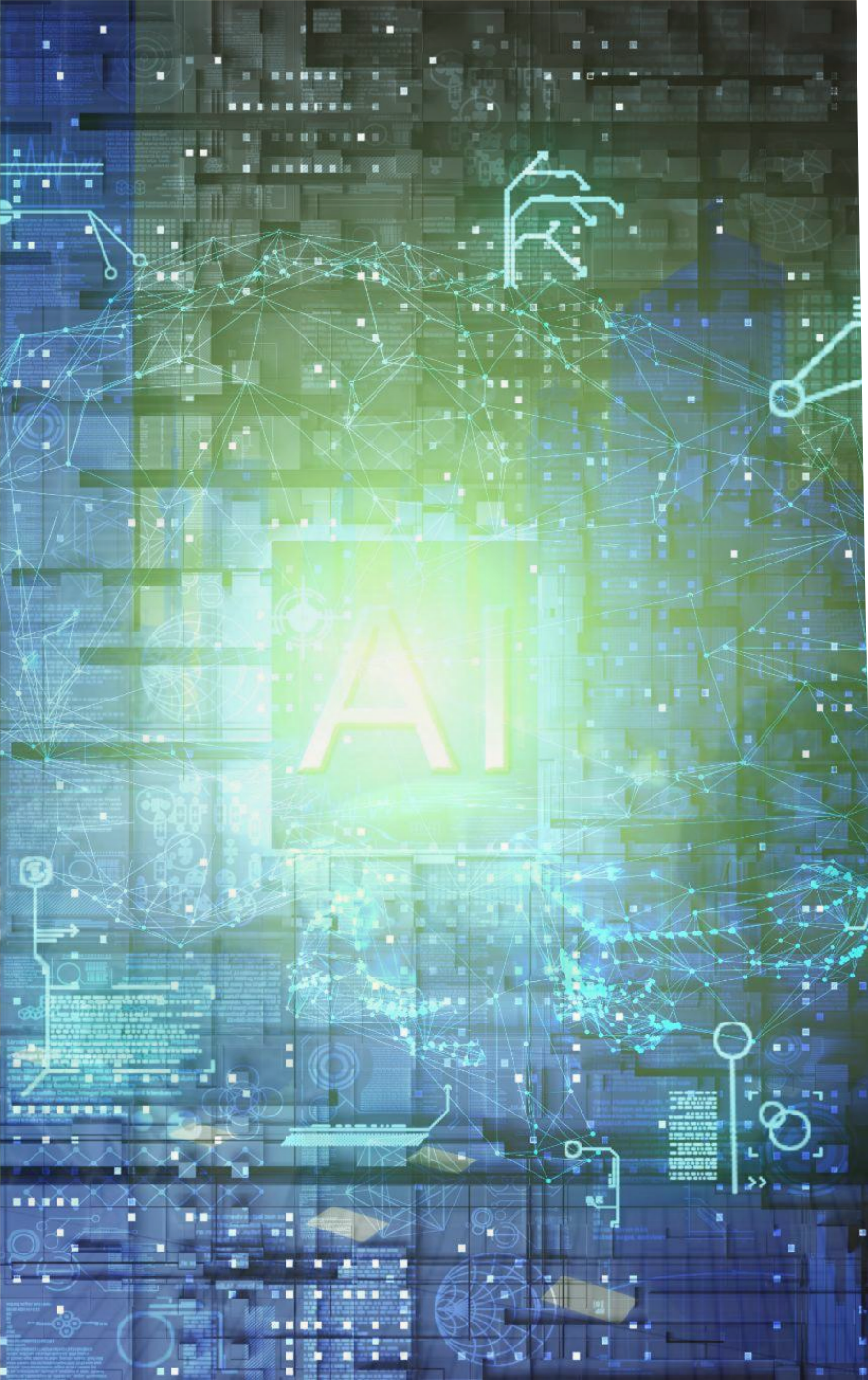
- Algorithms that improve their performance by learning from data without being explicitly programmed for every rule.
 - Supervised – trained with labeled data to predict known outputs
 - Unsupervised – finds patterns in unlabeled data
 - Reinforcement learning – learns through rewards and penalties
 - Artificial Neural Networks – models are inspired/mimic human neural structure, and used with other types of AI.

Agentic AI

- “AI agents” are autonomous systems that perform tasks and pursue goals using external tools with minimal human involvement.
- Agentic AI involves multiple AI agents working together to achieve complex objectives.
- Unlike chatbots, agents exhibit autonomy, goal-driven behavior, and adaptability.

Image Recognition

- AI designed to interpret and understand visual data, such as images or video feeds (e.g. object detection, medical imaging, data scrubbing)



Generative AI and Large Language Models (LLMs)

Generative AI Overview

Generative AI creates new content resembling existing text, images, audio, and video data using underlying technologies involving machine learning and neural networks with Large Language Models.

Large Language Models

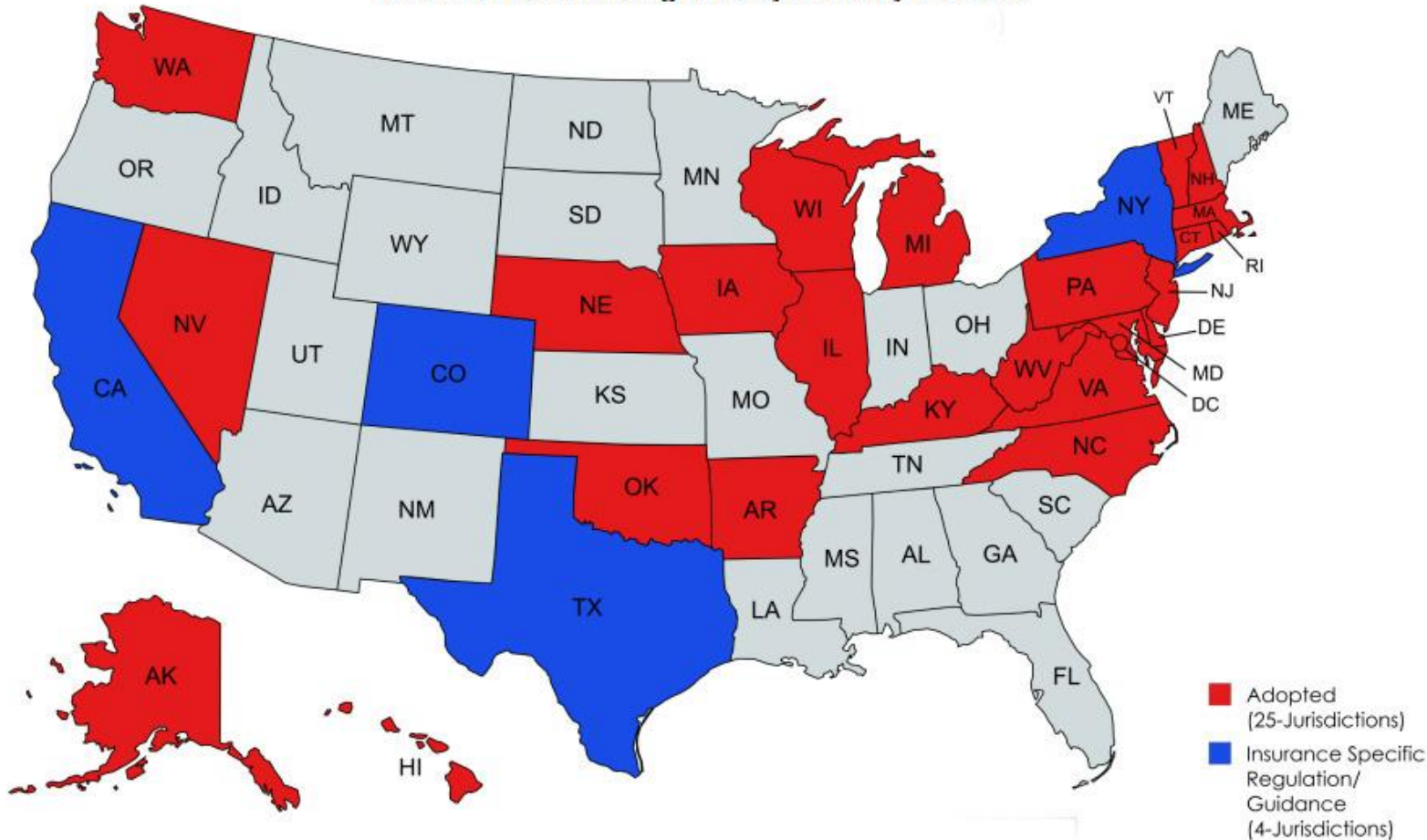
LLMs generate natural language responses based on immense amounts of data but *lack true reasoning and factual verification*. LLMs *simulate* reasoned language responses using complex statistical prediction machines.

- *Halluncinations* – immediate output that is factually inaccurate, unsupported or fabricated.
- *Model Drift* - gradual degradation in output over time because the environment, data, or usage patterns have changed since initial model training.

**An AI model's effectiveness is driven by
purpose, scope and data integrity,
not by computational power or dataset size**

The Insurance Industry Regulates the Use of Artificial Intelligence

Implementation of NAIC Model Bulletin:
Use of Artificial Intelligence Systems by Insurers



Scope and Applicability

As of April 1, 2026, twenty-five (25) jurisdictions have adopted some form of the NAIC Model Bulletin on use of Artificial Intelligence Systems by Insurers, developed in 2023.

Four other Jurisdictions (California, Colorado, New York and Texas) implement other insurer-specific Artificial Intelligence regulation.

Overview of the NAIC Model AI Bulletin

Focus on Risk and Oversight

The Bulletin highlights governance principles, risk management controls, documentation, and oversight for AI system use by insurers.

Highlights of the NAIC Model AI Guidance

Scope

- AI-driven decisions must comply with existing laws
- Prohibition on discriminatory adverse consumer outcomes

Framework

- Must develop a written AIS program for AI usage
- AIS program must include senior management accountability and board-level oversight

Governance

- Risk-based “proportionate” controls across AI lifecycle
- Reporting for model inventories, validation, monitoring and drift detection
- Oversight of third-party data and AI systems
- Documentation sufficient for exams and investigations.



Goals of Future Refinements

Shifting from general principles to more detail regarding operational framework and demonstrable governance.

Developing Model AI Systems Evaluation Tool:

- Enhanced AI controls for exams, filings, and market conduct reviews
- AI inventories, governance reviews, and data risk analysis.

New York DFS AI Cybersecurity Guidance



Focus on AI Cybersecurity Risks

The DFS guidance prioritizes managing *cybersecurity risks* introduced by AI technologies in financial services.

Regulatory Framework

The guidance complements New York's existing Cybersecurity Regulation 23 NYCRR Part 500.

Key Risk Management Areas

Focus areas include risk assessments, vendor management, data protection, access controls, monitoring, and training.

AI in Cybersecurity Programs

Insurers and covered entities must integrate AI considerations into cybersecurity governance and protocols.

Colorado's Evolving Regulations – Likely Just a Beta Version

Colorado Artificial Intelligence Act (CAIA)

CAIA imposes a duty of reasonable care on developers and deployers of AI systems that materially influence insurance decisions (e.g. “high-risk AI systems” making “consequential decisions”)

Deployer requirements

- Implement AI risk management framework
- Annual review of high-risk AI systems
- Annual impact assessments
- Public disclosures on high-risk AI use / data practices
- Clear consumer notices, explanations and appeal rights
- Report algorithmic discrimination within 90 days (Colorado A.G.)

Proposed Working Group Amendments (as of March 17, 2026)

Proposed Amendment **REMOVE:**

- Obligation to conduct annual impact assessments
- Governance requirement to maintain risk-management program
- Duty of care and all other references to algorithmic discrimination

Developer requirements

- Provide deployers with required documentation
- Publish and update public disclosures for high-risk systems
- Report algorithmic discrimination within 90 days (to deployers, Colorado A.G.)

Proposed Amendment **INTRODUCE:**

- Carve-outs for routine, clerical, low-stake decisions and HIPPA
- Allocation of fault between deployers and developers
- Invalidates liability indemnification provisions for an entity that has violated CAIA

Colorado's Evolving Regulations – Generating a New A.I. Model



CAIA Enforcement – An AI Process Stop

April 7, 2026: xAI (owned by Elon Musk) filed a constitutional challenge

April 24, 2026: DOJ intervened, citing Equal Protection concerns and alignment with Federal AI Framework

April 27, 2026: Colorado District Court delayed CAIA enforcement

Colorado Automated Decision-Making Technology (ADMT) (SB26-189)

(Passed May 9, 2026 – Waiting for Governor Polis' signature for eff. January 1, 2027)

Developer provides Deployer Documentation when ADMT influences a “consequential decision” on:

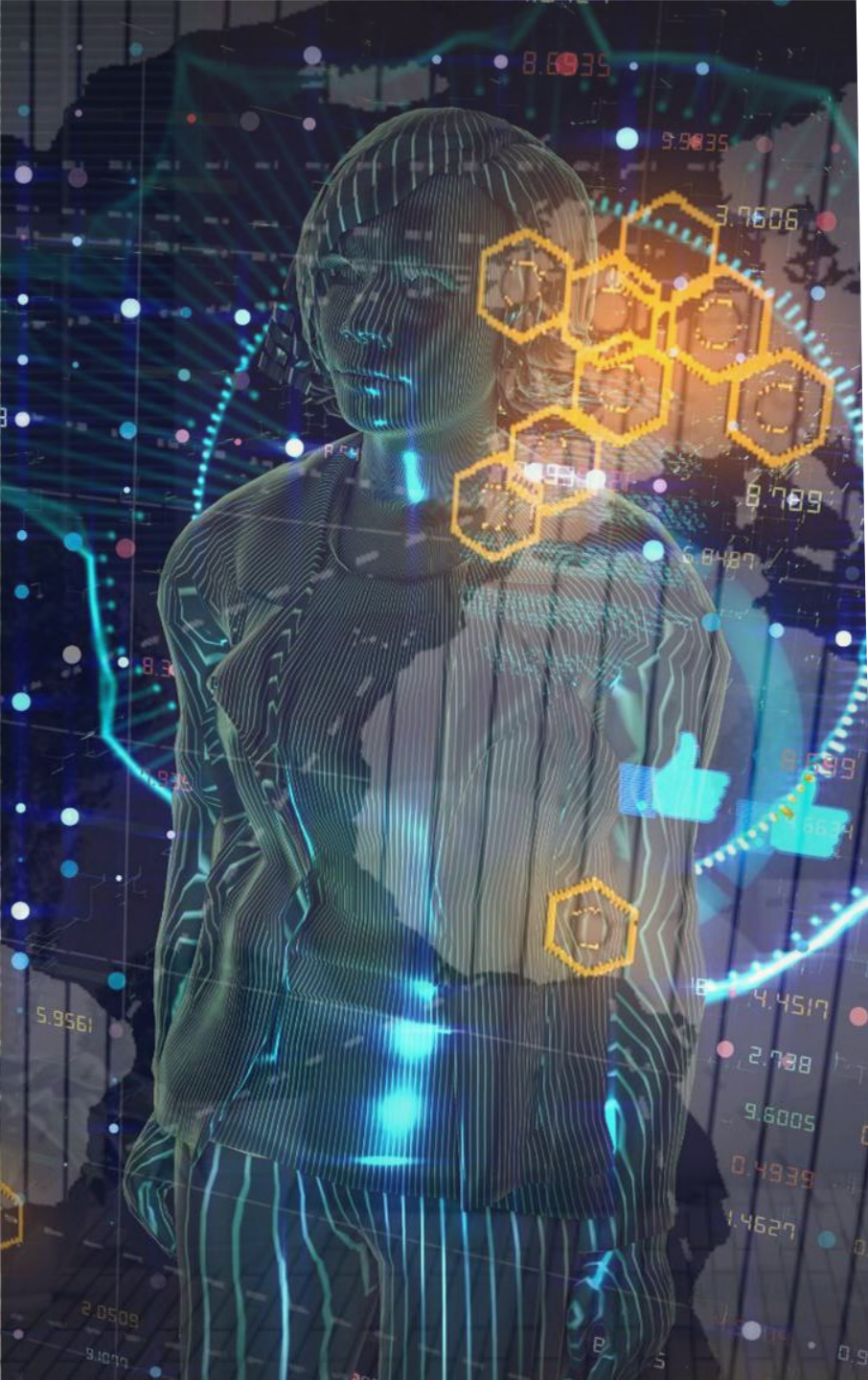
- Intended / Prohibited Uses
- Training Data categories
- Key Risks and Limitations
- Monitoring and Human Guidance
- Consumer Disclosure Inputs
- Ongoing Updates

Consumer Rights

- Notice before ADMT use in “Consequential Decisions”
- Adverse decision details required within 30 days

Cure Period

- 60-day cure period before Colorado Attorney General action
- No cure-period option for intentional bad conduct
- Cure-period will sunset on January 1, 2030



How AI Systems are used in Insurance

Predictive Systems

These models analyze data to model outcomes like claim severity and fraud likelihood in insurance.

Generative AI Systems

Generative AI produces new content and is used in chatbots, document review, and other productivity tools within insurance.

Decision-Support AI Systems

Assist human decision-makers by prioritizing workflow and providing recommendations without full automation.

Fully Automated AI Systems

Execute processes and output without human involvement, such as fraud detection, data scrubbing and data harmonization.

Use of AI in the Insurance Industry

Chatbots for customer service, claims

Generative AI for contract drafting and wording

Various AI tools for claims processing and management

Fraud prevention

Policy sales and servicing

Information collection

Agent relations and training

Product research and policy marketing

Pricing and underwriting assessment

Underwriting decision making

Executive Overview from McKinsey

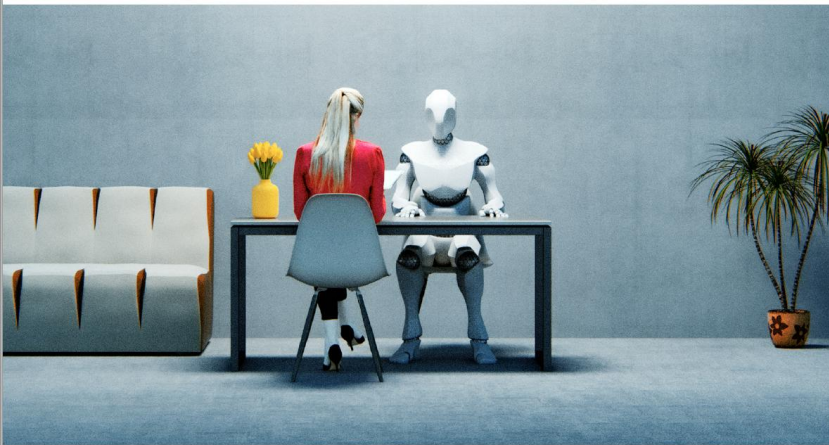
McKinsey
& Company

Financial Services Practice

The future of AI in the insurance industry

Only a few insurers have extracted outside value from AI to gain a competitive edge. Joining their ranks requires a strategic, comprehensive approach that rewires the enterprise.

This report is a collaborative effort by Nick Milinkovich, Sid Kamath, Tanguy Catlin, and Violet Chung, with Pranav Jain and Ramzi Elias, representing views from McKinsey's Financial Services Practice.



July 2025

Insurance Use Cases for AI

High-impact AI use cases can be adapted and deployed in various domains.

Gen AI use cases in insurance

Across insurance

■ Machine learning ■ Natural language processing ■ Optical character recognition ■ Cognitive agents ■ Robotic process automation

	Sales and distribution	Pricing and underwriting	Claims management	Policy servicing
Revenue generation	- Agent copilot - Hyperpersonalized customer outreach - Product research - Customer 360 profile - Personalized marketing campaigns - Service provider contract analyzer	- Broker-facing chatbot - Auto-generated quotes - Real-time pricing analysis		Policy pricing recommendations
Productivity and efficiency improvement	- Request-for-proposal streamlining - Automated call assessment - Agent recruitment chatbot - Personalized agent training - Automated prefilled forms	- Automated web search - Auto-generated risk report - Automated prefilled forms - Automated customer enrollment	- Auto-generated "first notice of loss" insights - Claims prioritization engine - Postcall synthesis - Auto-generated documentation - Claims review copilot - Dynamic information collection	- Chatbot interactive voice response - Conversational AI - Automatic document verification
Cost and risk reduction		- Underwriting decision agent - Market and sentiment analysis - Customer risk assessment - Fraud detection - Risk segmentation - Real-time assessment of sudden news impact - Policy risk expert	- Customer behavior adviser - Liability determination - Fraud prediction - Litigation reduction - Reinsurance recovery assessment - Triage and routing - Prior authorization optimization - Complaint prediction - Network optimization	Natural language processing policy review

Artificial Intelligence Use by the SIU



Fraud detection through complex data analytics.



Claim processing: interpreting large document and data sets without the need for specialized experts.



Assisting in investigative steps: generation of interview templates, investigative queries, etc.



Preparation of reports and correspondence (ministerial, not an investigative).

Current Barriers to AI Use by the SIU

Regulatory uncertainty.

Institutional capacity to support training and proper usage.

Concerns over data privacy and confidentiality.

Institutional apathy or outright resistance to implementation.

Fear of previous mishaps with pre-AI predictive modeling (claim value programs).

AI's Impact on Claims and the Industry's Response

Rise in losses relating particularly to the use of generative AI

Effective January 2026, Insurance Services Office, Inc. issued optional "generative artificial intelligence" exclusions to exclude or limit liability coverage for Generative Artificial Intelligence (GenAI) exposures in standard CGL policies.

CG 40 47 Exclusion – Generative Artificial Intelligence (for use with the ISO Commercial General Liability Coverage Part) :
“This insurance does not apply to: ‘bodily injury’ or ‘property damage’ arising out of ‘generative artificial intelligence’.”

CG 40 48 Exclusion – Generative Artificial Intelligence (Coverage B): *“This insurance does not apply to: ‘personal and advertising injury’ arising out of ‘generative artificial intelligence’.”*

CG 35 08 Exclusion – Generative Artificial Intelligence: *For use with the ISO Products/Completed Operations Liability Coverage Part. “This insurance does not apply to: ‘bodily injury’ or ‘property damage’ arising out of ‘generative artificial intelligence’.”*

““Generative artificial intelligence” means a machine-based learning system or model that is trained on data with the ability to create content or responses, including but not limited to text, images, audio, video or code.

Insurers are also no introducing absolute AI exclusions

AI Claim Challenges

Lack of a uniform definition of “generative artificial intelligence.”

Varying interpretations of what the definition means by ordinary laypersons or even the courts

Potential for broad application, leading to a possible influx in disputes

How does AI impact claims handling?

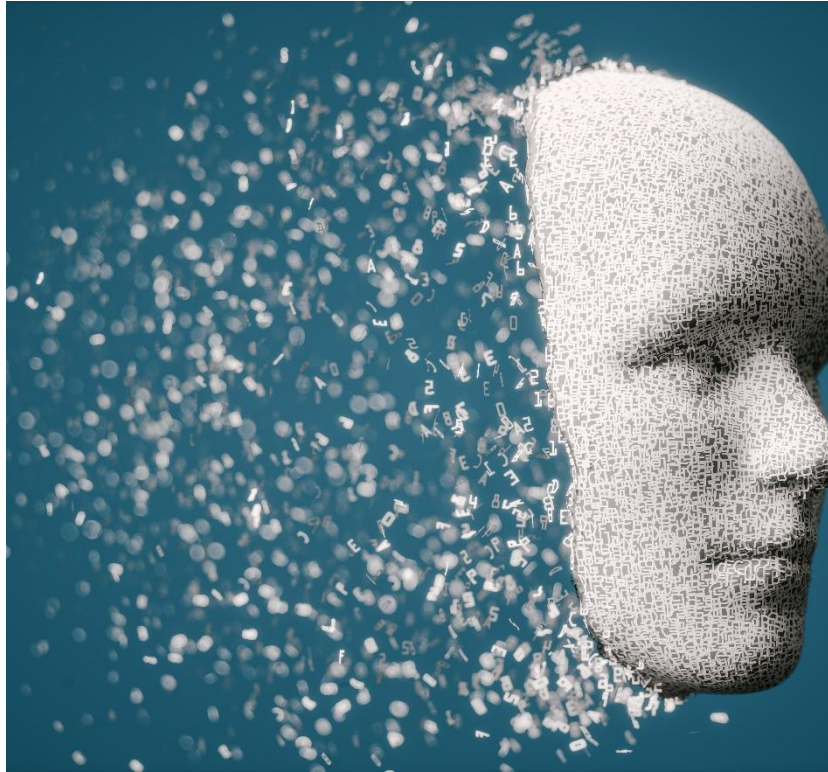
Ultimately, the adjuster's legal duties remain the same...

- Duty of a fair and reasonable investigation.
- Duty to communicate promptly and clearly.
- Duty to apply policy language consistently.
- Duty to supervise vendors and tools.

Regulators and courts will ask, who made the decision – the adjuster or the AI? Proper oversight is critical, and the mandated governance controls are intended to ensure that oversight occurs.



“Human in the Loop” for Claims



HITL Governance Importance

Human-in-the-loop is a substantive governance requirement, ensuring meaningful oversight over AI-driven decisions.

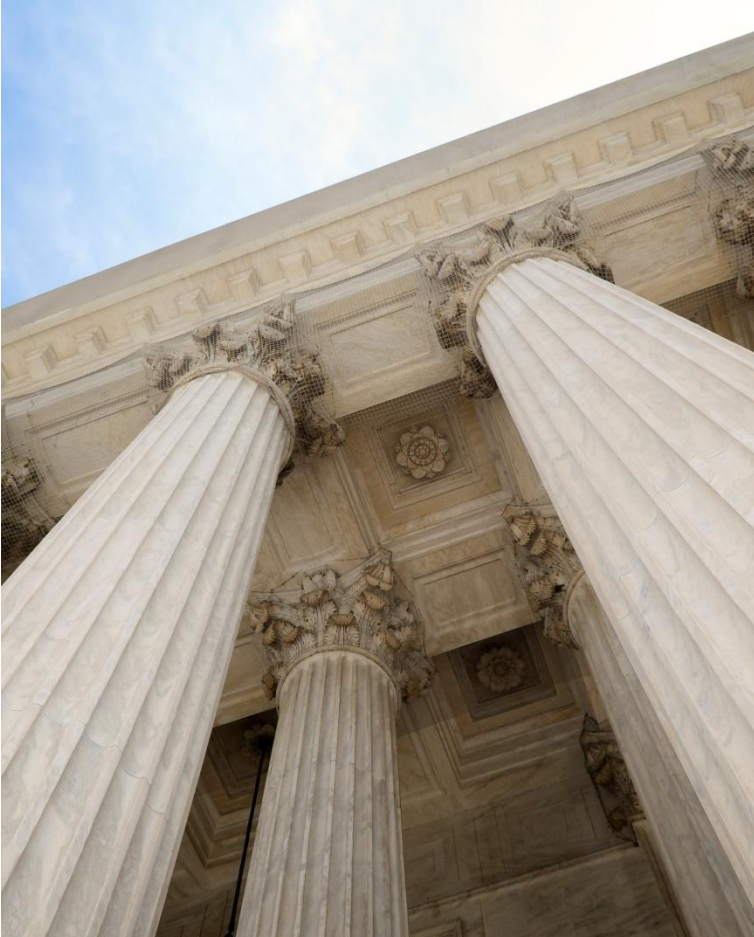
Claims Handling Oversight

Claims adjusters independently investigate and critically assess AI outputs to avoid automation bias.

Governance and Accountability

Insurers must document human judgment and maintain controls to prove real human decision-making.

Litigation trends



- ***Mata v. Avianca, Inc. (S.D.N.Y. 2023)***
 - Plaintiff's Counsel filed a legal brief containing citations obtained from ChatGPT.
 - Opposing counsel alerted the Court they could not locate the case law.
 - At the direction of the Court, Plaintiff's counsel submitted an affidavit with the fabricated decisions.
 - Plaintiff's counsel asked ChatGPT if the cited cases were 'real' and was told the cases 'indeed exist.'
 - The judge described the fabricated cases as "gibberish" and "non-sensical."
 - The Court sanctioned Plaintiff's counsel for 'subjective bad faith' including a \$5,000 penalty.
 - Judge: "Technological advances are commonplace and there is nothing inherently improper about using a reliable artificial intelligence tool for assistance."



AMERICAN BAR ASSOCIATION

STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY

Formal Opinion 512

July 29, 2024

Generative Artificial Intelligence Tools

To ensure clients are protected, lawyers using generative artificial intelligence tools must fully consider their applicable ethical obligations, including their duties to provide competent legal representation, to protect client information, to communicate with clients, to supervise their employees and agents, to advance only meritorious claims and contentions, to ensure candor toward the tribunal, and to charge reasonable fees.

ABA Model Rules Implicated by Use of AI

Competence & Diligence	Rules 1.1, 1.3
Client Confidentiality	Rule 1.6
Supervising People & Assistance	Rules 5.1, 5.2, 5.3
Informing Clients/Courts	Rules 1.4, 1.2
Duty of Candor	Rule 3.4
Unauthorized Practice of Law	Rule 5
Conflicts of Interest	Rule 1.8
Fairness to Opposing Party & Counsel	Rule 3.4
Duty to Avoid Misleading Communications	Rule 4.1
Fees and Expenses	Rule 1.5
Duty to Avoid Discrimination	Rule 8.4.1

Check your Local Rules

Federal and State Courts are issuing standing orders specifically addressing the use of A.I. in legal filings

Mandatory Disclosure with Certification

- Disclose the use of AI
- Identify AI tools used
- Identify what section(s) of the briefing included A.I. generated content
- Certify a licensed attorney has reviewed content and verified citations

Prohibition

- Local rules fully prohibit A.I. usage in legal filings
- Does not ban using traditional technologies such as LexisNexis/Westlaw
- Does not ban using Google Search (AI assist?)

Hybrid Approach

- A.I. usage allowed with no declarations required
- Burden of verification is by attorney signature on the document
- Beware Sanctions



Litigation trends

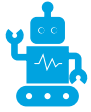


- Courts have found that AI users do not have substantial privacy interests in their "conversations with [another publicly accessible AI platform] which users voluntarily disclosed" to the platform and which the platform "retains in the normal course of its business." *In re OpenAI, Inc., Copyright Infringement Litig.*, No. 25 MD 3143, ECF No. 1021 at 3 (Jan. 5, 2026).
- Conversely, in *Warner v. Gilbarco, Inc.*, No. 2:24-cv-12333, 2026 U.S. Dist. LEXIS 27355 (E.D. Mich. Feb. 10, 2026), a different court held that a pro se litigant's AI prompts were protected as work-product because they reflected the litigant's personal mental impressions.

United States v. Heppner, 2026 U.S. Dist. LEXIS 32697 (S.D.N.Y. Feb. 17, 2026)

- On February 10, 2026, Judge Rakoff of the Southern District of New York ruled that certain AI-generated documents, created by an individual using AI tool Claude and then sent to that individual's attorney in the context of ongoing litigation, were not protected by attorney-client privilege or the work product doctrine.
- A/C privilege did not apply:
 - First, the AI Documents are not communications between Defendant and his counsel; Claude is not an attorney.
 - Second, the communications memorialized in the document were not confidential.
 - Third, Defendant did not communicate with Claude for the purpose of obtaining legal advice, and critical to this finding was that Defendant's counsel did not suggest or direct the use of Claude, and had counsel directed Heppner to use Claude, "Claude might arguably be said to have functioned in a manner akin to a highly trained professional who may act as a lawyer's agent within the protection of the attorney-client privilege."
- The documents were not prepared at the behest of counsel and did not disclose counsel's strategy, and therefore did not merit protection under the work-product doctrine..

Employee Use of Third-Party AI



Readily Available

Companies are not the only adopters of AI.

Platforms like ChatGPT have millions of daily users.



Not Confidential

Free for a reason: access to data and beta testing.

Platforms will analyze the data that users share.



Potentially Consequential

Violations of privacy and data protection laws.

Waiver of legal privileges.



Potential Liability Associated with Use of AI by Insurers

Data privacy issues

Waiver of privilege

Algorithmic bias and disparate impact

Violation of state consumer protection and privacy laws

Key Takeaways

Effective A.I. Usage

Defining specific purpose, developing AI model integrity, and scaling appropriately are critical to effective use of A.I. systems and tools.

Regulatory Considerations

Develop internal AI frameworks and governance to comply with evolving regulatory standards for fairness and accountability.

Human Accountability

Human oversight is necessary for AI-supported outputs, especially for those involving consequential decisions.

Legal Impact

Courts appear reluctant to embrace the changing technology landscape and are closely scrutinizing the use of AI, so parties should proceed with caution.



Human oversight is a non-negotiable

- Maintain a 'human in the loop' for all decisions relating to risk placement and claims.
- The adjuster must undertake a critical, not perfunctory, review before denial or payment decisions.
- The acceptance or rejection of AI results must be justified and documented.