

Legal Connections



LEGAL EXPERTISE FOR THE BUSINESS COMMUNITY

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This Memorial Day weekend, please join me in honoring the brave men and women who have sacrificed their lives in service to our country.

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NOTARY MODERNIZATION ACT IN EFFECT (PART 1)

Have you ever needed a notary public? Probably. Have you ever had a problem finding one? Probably not. Unfortunately, this has reduced the prestige and perceived importance of this essential office.

The word "notary" comes from the Latin notarius, which means reporter or scribe, and the office of a notary public can be traced back to the Roman Empire. The National



BY: CHARLES SCHNEIDER & HALLIE ZARBAKSH

Notary Association has a notary history page with fun facts about famous former notaries and the offices' role in history. Did you know that in some states – six to be exact – a notary can perform a wedding ceremony? Ohio is not

one of the six. So, keep in touch with your favorite clergy.

As important as a notary was throughout history, one could argue that while not as prestigious, a notary's role in society today is just

as critical.

Ohio's Secretary of State certainly thinks so! The recent change in the law makes that clear.

In September of 2019, the Revised Code was amended to require all notary applicants to pass a background check, known as the Notary Public Modernization Act. And not just any run-of-the-mill background check, but one that includes submitting the applicant's fingerprints to the Ohio Bureau of Criminal Investigation (BCI). A comprehensive list of criminal

offences was adopted that, if you were convicted, would prohibit you from being a notary. On the list are all theft offenses including misdemeanor offenses.

However, lawyers and peace officers do not have to submit to a background check -they already had to do that to be admitted to their respective professions.

The requirements do not stop there. For information about additional changes to the Notary Public laws, watch for the June 9th edition of Legal Connections. ■

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ARTIFICIAL INTELLIGENCE: THE NEWEST LINE ITEM FOR A BOARD OF DIRECTORS

Recently, the Institute of Directors ("IoD"), a UK based professional organization for senior level executive and directors and a leading authority on entrepreneurialism, professionalism in business and good governance, issued a paper reflecting 12 principles for directors to keep in mind with respect to the ethical use of artificial intelligence ("AI"). Emphasizing that AI should be on every board's agenda and considered seriously as part of an organizations governance and corporate social responsibility requirements, the IoD notes that AI is a company issue, not just an IT one.

AI has been generating more buzz than ever, particularly given their potential incorporation into the workforce. In fact, many boards do not realize that their organizations may already be using forms of AI let alone understand the best practices for utilizing that technology. For example, ChatGPT, a natural language processing tool driven by AI technology that allows users to have human-like conversations and more, has already been employed to draft everything from letters of recommendation to legal forms like leases. To that end, AI invites a number of serious regulatory and ethical questions



BY: RACHEL SMOOT

that all boards should take into consideration when employing it.

Using the IoD's reflective checklist, the White House Office of Science and Technology Policy's ("OSTP") Blueprint for an AI Bill of Rights, and ChatGPT itself, the following list comprises some considerations for every board (and business) to take into account when using AI:

- 1.) Monitor the evolving regulatory environment. AI is a moving target and new policy is going into effect daily, such that any company would benefit from monitoring this movement on both an industry specific and global scale.
- 2.) Continually audit and measure what AI is in use and what they are doing. To ensure that AI is being used properly, it would be wise to establish a consistent approach to evaluating the organization's use of AI. The IoD recommends embodying the ethical principles in the ISO 9001:2015 quality system for consistency. With the COVID-19 pandemic accelerating the shift to digital business models, digital transformation initiatives to improve efficiency, agility, and innovation will be key.
- 3.) Undertake impact assessments that

consider the business and the wider stakeholder community. Consider possible negative impacts on employees and stakeholder groups who may be affected by AI.

4.) Establish board accountability. Ensure that the board holds the final veto on the implementation and use of AI in the organization.

5.) Set high level goals for the business aligned with its values. Make sure the AI benefits the organization, its employees, customers and wider stakeholders. For example, use AI to make faster, more consistent decisions and prevent bias.

6.) Empowering a diverse, cross functional ethics committee that has the power to veto. Establish an ethics committee for the purpose of overseeing AI proposals and implementations, who can provide recommendations to the board.

7.) Document and secure data sources. Clearly identify the sources of data for the AI as well as establish a method of detecting and reporting bias.

8.) Train people to get the best out of AI and to interpret the results. Establish and employ a procedure to train employees in how to use

the AI in order to prevent bias and potential harmful outcomes.

9.) Comply with privacy requirements. Audit the AI for compliance with privacy legislation and organization policies.

10.) Comply with secure by design requirements. Any AI used must be secure, so continue to monitor emerging security risks and develop contingency plans to manage threats and disruptions effectively.

11.) Test and remove from use if bias and other impacts are discovered. Be accountable. If bias is found within the AI, remove the AI from use until resolved.

12.) Review regularly. Continue to regularly monitor the AI for deviations and be prepared to implement corrective actions as soon as reasonable.

As AI becomes more prevalent, it is clear that AI can be a very useful tool, but it is also very apparent that AI is an imperfect tool that requires oversight and regulation. As the leaders and representatives of any organization, a board of directors is responsible for ensuring that any AI used is utilized responsibly and effectively and in compliance with any applicable regulatory policies. ■



BCI and FBI fingerprinting is available at the Columbus Bar Association

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Notary Applicants



Pre-Employment Screening



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